

4.4 19/01699/FUL

Date expired 5 August 2019

Proposal: Installation of sewage treatment plant. Acoustic Close Board Fence.

Location: Chartwell House, Mapleton Road, Westerham KENT
TN16 1PS

Ward(s): Westerham & Crockham Hill

Item for decision

The application has been referred to the Development Control Committee by Councillor Maskell on the grounds of harm to the Green Belt and noise disturbance to neighbouring dwellings, contrary to policy EN2.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 2283/311/LBP, 2283/311/1, 2283/311/100, hla 316 01/A, 10747-03-SHT03/A.

For the avoidance of doubt and in the interests of proper planning.

2) The sewage treatment system shall only operate while the acoustic fencing is in place in full accordance with drawing 2283/311/100. If at any time the fencing is not in full accordance with that drawing, the use of the sewage treatment plant shall cease with immediate effect until such a time that the acoustic fencing is reinstated in full.

To protect the amenities of the nearby residential properties, to comply with policy EN2 of the ADMP.

3) Within 3 months of the date of this permission, details shall be submitted to the local planning authority for approval of a scheme of landscaping to thicken and enhance the hedgerow existing to the south of the sewage treatment plant. The approved scheme shall be implemented in full in the first planting season following its approval.

To provide visual screening to reduce visibility from the public right of way and wider views across the AONB, to comply with policies EN1 and EN5 of the ADMP.

4) All planting or seeding approved shall be carried out in the first planting and seeding season following the approval of those details. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.

To provide visual screening to reduce visibility from the public right of way and wider views across the AONB, to comply with policies EN1 and EN5 of the ADMP.

5) The acoustic fencing hereby approved shall be of timber construction and so maintained.

To protect the character and appearance of the area and the landscape, and to preserve the setting of the heritage assets, to comply with EN1, EN4 and EN5 of the ADMP.

Informatives

1) The granting of planning permission confers no other permission or consent on the applicant. The applicant is reminded that no works should be undertaken on a Public Right of Way without the express consent of the Highway Authority. This means that the Public Rights of Way must not be stopped up, diverted, obstructed (this included building materials, vehicles or waste generated during the works) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across the Public Right of Way without consent.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of Site

1 The proposals relate to land located to the south of Chartwell House, on the eastern side of Mapleton Road. The site of the proposals is accessed via a separate access to the south of Chartwell Cottage and the proposals are located directly east of this property.

Description of Proposal

2 Planning permission is sought for the installation of a sewage treatment plant and associated acoustic fence. The application is part retrospective as the treatment plant has already been installed.

3 The sewage treatment plant is currently partially enclosed with 2m high hurdle fencing. The proposals entail the addition of a 1.5m high close board acoustic fence to the northern and part western side of the equipment outside the hurdle fence and a proposed hedge beyond that.

Relevant Planning History

- 4 The Planning Statement submitted with the application describes that the works have been undertaken in connection with a new WC within the gardens of Chartwell (granted planning permission under reference 14/03491/FUL) which were initially intended to link to the existing foul sewer which serves both Garden Cottage and Well Cottage. It is relevant that that planning permission did not include a drainage plan and any treatment works.
- 5 The following planning records also relate to the current proposals:

Lawful development certificate refused 01.06.2018 for “Installation of a sewage treatment plant.”
- 6 Lawful development certificate refused 28.09.2017 for “Installation of sewage treatment plant.”

Policies

- 7 Core Strategy (CS)
 - SP1 Design of New Development and Conservation
 - SP2 Sustainable Development
 - SP11 Biodiversity
 - L01 Distribution of Development
 - L08 The Countryside and the Rural Economy
- 8 Allocations and Development Management (ADMP)
 - EN1 Design Principles
 - EN2 Amenity Protection
 - EN4 Heritage Assets
 - EN5 Outdoor Lighting
 - LT1 Tourist Accommodation and Visitor Attractions
- 9 Other
 - Sevenoaks Development in the Green Belt SPD
 - Kent Downs AONB Management Plan

Countryside Character Assessment SPD

Constraints

- 10 Area of Outstanding Natural Beauty
 - Green Belt
 - Adjacent public right of way
 - Registered Parks and Gardens- Grade II*
 - Area of Archaeological Potential
 - Near listed buildings- Chartwell (Grade I) and Oast Tops (Grade II)

Planning History

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Consultations

Westerham Town Council

- 14 Objects- “WTC objects to this application and refers back to the original application SE/17/02112/LDCEX whereby ‘WTC objected as it was a new build in the AONB and Green Belt. It appears to have been built in a different site to that originally proposed and is visually intrusive in the landscape with minimal landscaping. The site is close to several cottages along Mapleton road that are affected by noise and sight lines as shown in the photographs. It is recommended that the National Trust be instructed to remove the installation and reapply on the original site with appropriate mitigation for landscaping and noise reduction.”

SDC Conservation Officer

- 15 No Objection - “The sewage treatment works is located in the south west edge of Grade II* Registered Park and Garden and is the setting of Chartwell House, which is Grade I. The area is a strip of grassland which is bordered by

hedging and post and rail fencing. The sewage treatment plant has already been installed and is currently screened in part by hurdle fencing and planting. It is proposed to install 1.5m acoustic fencing around the treatment plant to mitigate against the sound and will then be screened by hedging. There are concerns with the introduction of the acoustic close board fencing due to its solid appearance. Whilst hedging is proposed, unless it is planted particularly densely, there will be glimpses of the acoustic fence in winter. However the planting of the orchard to the north east of the sewage treatment plant has already changed the character of this area from grassland and as a consequence there is no longer quite the same sense of openness. Due to the typography, built features and planting, the proposal will not impact on the gardens and pleasures grounds of Chartwell. Consequently there is no objection to the scheme as the proposal is not considered to harm the significance of the setting of the listed building nor the significance of the registered park and garden.”

Historic England

- 16 “We do not wish to offer any comments. We suggest you seek the views of your specialist conservation and archaeological advisers as relevant.”

The Gardens Trust: (in summary)

- 17 We do not wish to comment on the proposals at this stage. This does not in any way signify either approval or disapproval of the proposals.

Environmental Health

- 18 “I am satisfied with the acoustic assessment and have no objection to the provision of a suitable constructed acoustic fence to give an acceptable night-time noise level from the plant.”

KCC Rights of Way Officer

- 19 “Public Right of Way Footpath SR386 runs along the track from Mapleton Road in an east north east direction. I enclose a copy of the Public Rights of Way network map showing the line of this part for your information.
- 20 This development has had an adverse impact on the visual and auditory amenity for walkers. It is prominent in the landscape which slopes down to the public right of way.
- 21 The track has been doubled in width to allow a layby to be built which has been surfaced and is not being used for parking, as shown on the photos submitted with the application. The previous line of the post and rail fence and mature hedge has been removed and a new fence and hedge set back into the field.
- 22 I would be interested to know what evidence the agent has for suggesting that there are few walkers using the footpath. This is a public highway and I would argue that the impact is not negligible but high, due to the proximity of the plant to the footpath and the hum that is audible. In winter the hedge is not sufficient. The hedge should be thickened and the hurdles continued along

the southern side of the site. In 5.15 the Landscape Sensitivity is judged as High at local, regional and national level due to its heritage location yet little consideration appears to have been taken with regard to the impact on walkers who use this route. This is also new development in the AONB.

- 23 The granting of planning permission confers no other permission or consent on the applicant. IT is therefore important to advise the applicant that no works should have been undertaken on a Public Right of Way without the express consent of the Highway Authority. This means that the Public Rights of Way must not be stopped up, diverted, obstructed (this included building materials, vehicles or waste generated during the works) or the surface disturbed. There must be no encroachment on the current width, at any time now or in the future and no furniture or fixtures may be erected on or across the Public Right of Way without consent.”

Representations

- 24 No representations have been received.

Chief Planning Officer’s Appraisal

- 25 The main planning considerations are:
- Whether the development is appropriate in the Green Belt and the impact on the openness of the Green Belt;
 - Impact on heritage assets;
 - Impact on the character of the area and the AONB;
 - Impact on residential amenity
 - Access and Public Right of Way

Impact on the Green Belt

- 26 As set out in paragraph 145 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this as listed within paragraph 145. Paragraph 146 lists other forms of development that are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes “engineering operations”.
- 27 The proposed sewage treatment works do not comprise any buildings as such. Excluding the fencing, the works comprise predominantly low level structures which it would not be possible for any person to stand within at the ground level. The tallest part of the proposed equipment is the ‘kiosk’ which measures 1m in height plus a 10cm high alarm above. Those parts of the works are considered to comprise engineering works and could be appropriate development, subject to their impact on openness.

- 28 Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Those structures associated with the treatment plant comprise low level additions to the site. They are considered to preserve the openness of the Green Belt.
- 29 The surrounding enclosures, including the existing hurdle fence and the proposed 1.5m high acoustic fence, do not meet any of the exceptions listed within paragraphs 145 and 146 of the NPPF. As such they are inappropriate development in the Green Belt by definition.
- 30 They would also add built form to the site where none had previously existed. These fences would be largely solid and, in particular the acoustic fence, would not provide any views through. These fences are therefore also considered to cause harm to the openness of the Green Belt.
- 31 Paragraph 143 states that where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.
- 32 Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.
- 33 Very special circumstances are considered at the end of this report, once all potential harms have been identified.

Impact on heritage assets

- 34 The proposed works are located in the south western edge of a Grade II* listed Registered Park and Garden which is the setting of Chartwell House, which is Grade I listed. The site also lies within an area of archaeological potential.
- 35 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 36 Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.
- 37 Policy EN4 of the ADMP states that proposals that affect a Heritage Asset, or its setting, will be permitted where the development conserves or enhances the character, appearance and setting of the asset. The NPPF also states that great weight should be given to the conservation of heritage assets (para.193).
- 38 The SDC Conservation Officer has raised no objection to the proposals, stating that the open character of this part of the Registered Park and Garden has

already been compromised by the planting of a formal orchard to the north east of the application site and that the proposals would not impact on the gardens and pleasure grounds of Chartwell. The Officer concludes that the proposals are not considered to harm the significance of the setting of the listed building nor the significance of the registered park and garden. For these reasons the proposals are considered to comply with policy EN4 of the ADMP and would preserve the setting of the listed building and listed gardens.

- 39 Consultation responses have also been received from both Historic England and The Gardens Trust, both have chosen not to comment on the application.
- 40 The site is an area of archaeological potential. It is noted that the ground works associated with the plant have already been undertaken in 2016. The proposed additional works would not entail significant ground works and no further information is required in this regard.

Impact on the character of the area and the Area of Outstanding Natural Beauty (AONB)

- 41 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 42 There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.
- 43 Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 44 The site lies within the Kent Downs AONB. The site is exposed to long views from the south due to the gentle gradient of the land which drops to the south. The proposed treatment works are limited in their impact on the landscape character due to the low level of that equipment, its colour and finish, and the soft landscaped boundary to the south of the site. The highest part of the equipment being the kiosk at 1.1m high is approximately the same height as the existing hedgerow.
- 45 The existing hurdle fencing and proposed acoustic fencing however, which would rise to 2m and 1.5m above the ground level, would be more visually prominent in the landscape due to their height, raised position and more solid nature.
- 46 It is noted that the application site is close to the residential properties of Chartwell Cottage, Forest Lodge and Well Cottage. These properties have

residential gardens characterised by typical residential paraphernalia, including boundary treatments and garden structures. These properties and their residential gardens form part of the established landscape character of the AONB. However, the proposed fencing would be visually separate from the boundary treatments and residential curtilages of those properties and would sit within part of the registered gardens which is otherwise largely open in this particular location.

- 47 In light of the position, height and design of the proposed fencing, it cannot be concluded that the fencing would both conserve and enhance the AONB. It would therefore fail to meet the tests discussed above and would be contrary to policy EN5 of the ADMP. The fencing fails to show consideration for the character of the area in which it lies.
- 48 The lower level equipment, by reason of its limited height and colour, experiences limited visibility from the surrounding area and sits fairly unobtrusively into the landscape. It is considered that this conserves the AONB.

Neighbouring Amenity

- 49 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development. The sewage treatment plant would operate continuously over a 24 hour period 7 days a week.
- 50 The application is accompanied by a noise impact assessment which considers the noise levels arising from the sewage treatment plant using accepted British Standard assessment methodology. The report considers the change in noise levels arising from the equipment experienced by Chartwell Cottage, Forest Lodge and Well Cottage. This is informed by a baseline sound survey which assessed the ambient background noise levels.
- 51 Of particular note, the report finds that during the night-time periods, noise levels have been predicted to exceed the night-time background noise level by 5dB at one receptor, being Chartwell Cottage, the closest of the residential properties. The report concludes that a required 5dB(A) sound reduction could be achieved by the positioning of a 1.5m barrier between the sewage treatment system and Chartwell Cottage.
- 52 During daytime hours, the noise created by the equipment was found to fall below the ambient background noise level experienced at these properties.
- 53 The proposals include the acoustic fencing to provide the necessary noise attenuation to Chartwell Cottage at night time. Environmental Health have been consulted on the proposals and raise no objection subject to the provision of the acoustic fence. Subject to maintenance of the fence while the treatment system is in operation, the proposals would comply with EN2 and would preserve residential amenity. A condition is recommended to this effect.
- 54 The fencing and equipment itself would not have an adverse impact on the daylight or sunlight experienced by those nearby properties.

Access and Public Right of Way

- 55 The equipment would be serviced from the adjacent lay by to the south of the site. As a result servicing vehicles would be located off the highway and the proposals would not cause harm to highway safety.
- 56 The lane from which the site is accessed is a public right of way (reference SR386). The Public Rights of Way Officer at Kent County Council has raised concern for the visual and audible impact of the proposals for walkers. In line with this Officer's comments, a condition is recommended to secure a scheme to thicken the hedge to reduce the visibility of the proposals from the public right of way. The Officer has recommended that the hurdle fencing is continued around the southern part of the equipment, however this is likely to draw further attention to the equipment.
- 57 The Public Rights of way Officer has raised concerns for the changes which have occurred to the width of the lane, however these works have not required planning permission and do not form part of the proposals currently under consideration.
- 58 It is recommended that an informative forms part of any planning permission to remind the applicant of their obligations in terms of the right of way.

Assessment of any Very Special Circumstances

- 59 Paragraph 144 of the NPPF states that when considering any planning application, we should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by any other considerations.
- 60 In this instance the harms have been identified as:
- Harm to the Green Belt through being inappropriate by definition,
 - Harm to the openness of the Green Belt;
 - Failure to conserve and enhance the landscape character of the AONB.
- 61 Possible very special circumstances - these can be summarised as:
- That the fencing could be installed under permitted development without planning permission
- 62 With regard to permitted development, fencing could be installed in this location under Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended. In particular this is because the fencing is not adjacent to a highway, is not over 2m in height and is not within the curtilage of a listed building. This has been discussed as length with the Council's Conservation Team who agree the site is not part of the curtilage of Chartwell, only part of its setting. While the site is part of a

Grade II* listed Park and Garden, the permitted development order does not prohibit such development in those areas.

- 63 This is a material consideration of significant weight as the applicant could erect the fencing up to a height of 2m without the need for planning permission.
- 64 This consideration is of substantial weight and it is considered that this would clearly outweigh the harms identified. A condition is recommended to ensure that the extent of fencing erected is only that of the location and height shown on the approved plans.

Conclusion

- 65 It is considered that there are very special circumstances which outweigh the harms to the Green Belt and AONB identified in this case. The proposals are policy compliant in other respects subject to compliance with conditions.
- 66 It is therefore recommended that this application is Granted.

Background Papers

Site and Block Plan

Contact Officer: Claire Shearing Contact: 01732 227000

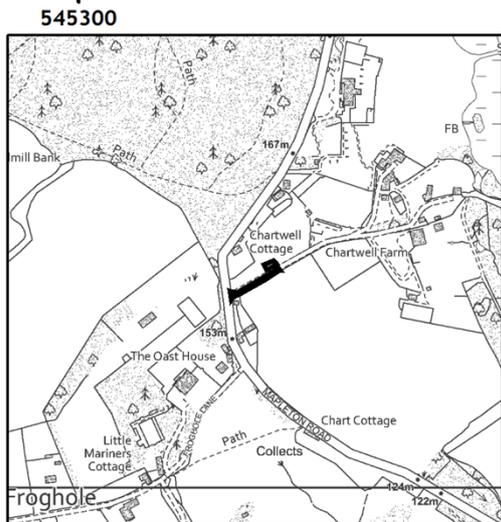
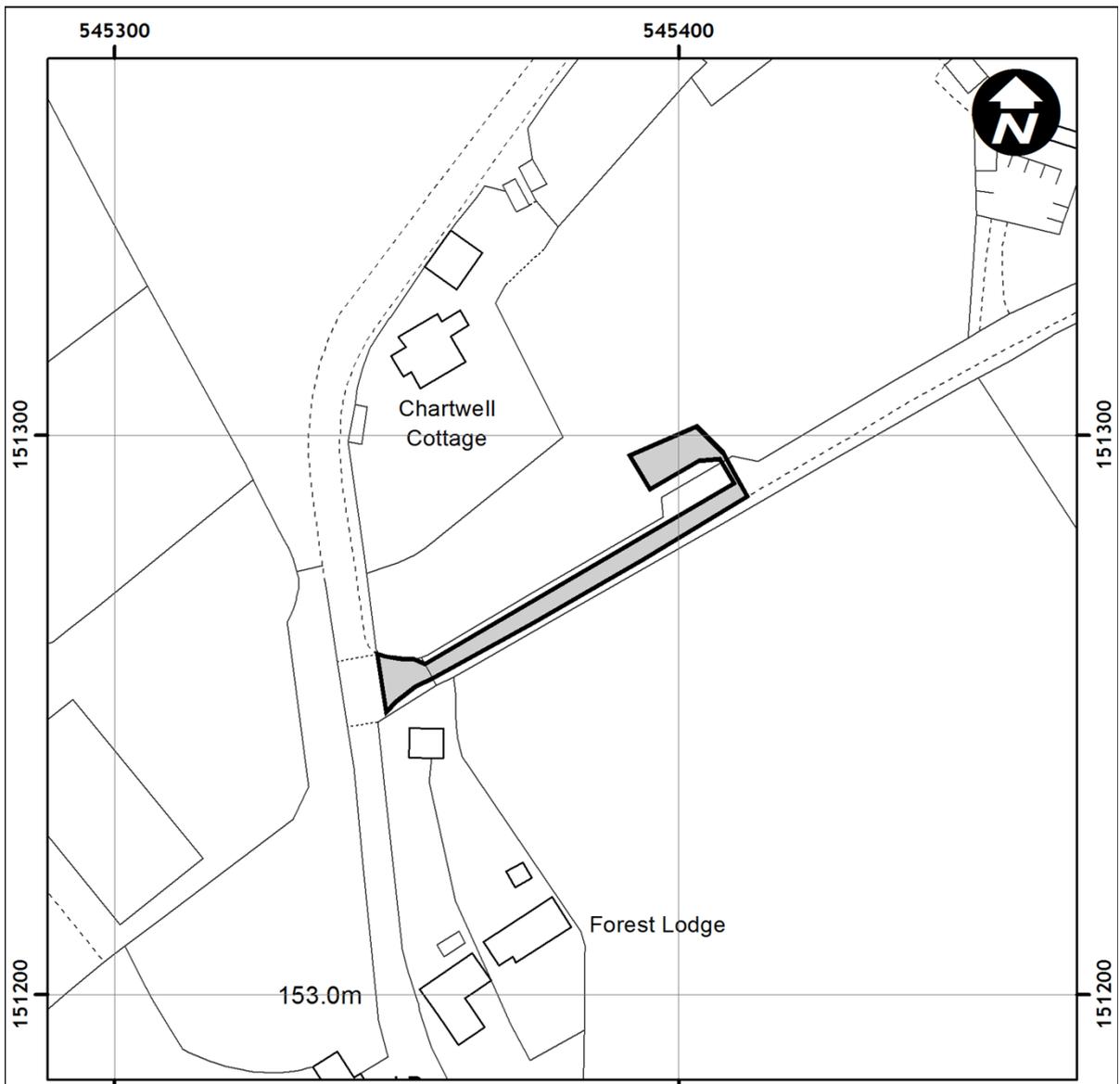
Richard Morris
Chief Officer Planning & Regulatory Services

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PSW48WBKLS00>



Site Plan

Scale 1:1,250

Date 05/10/2019



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Ordnance Survey 100019428.

BLOCK PLAN



BLOCK PLAN

