

Item B2

TW/06/1646 – APPEAL BY BOWMAN & SONS AGAINST THE DECISION OF KENT COUNTY COUNCIL TO REFUSE PERMISSION AT LITTLE BAYHALL FARM, HIGH WOODS LANE, TUNBRIDGE WELLS

A report by Head of Planning Applications Group to Planning Applications Committee on 11 September 2007.

Appeal by Bowman & Sons against the decision taken by the County Council to refuse permission for a change of use from agricultural use to new green waste open windrow composting facility at Little Bayhall Farm, High Woods Lane, Tunbridge Wells, Kent (Ref: TW/06/1646)

Recommendation: FOR INFORMATION.

1. At the meeting of your committee held on 12 December 2006, I reported a second application for a new green waste windrow open windrow composting facility on a site at Little Bayhall Farm, High Woods Lane, Tunbridge Wells.
2. In my report I drew to Members attention that the application lacked sufficient information to address the previous grounds for refusal (under application ref TW/05/3222). In formally determining the application, Members resolved to refuse permission on the grounds that:
 - The proposal represents inappropriate development in the Green Belt and Area of Outstanding Natural Beauty and the applicant has failed to demonstrate the special circumstances necessary to override presumption against permitting the proposal. I therefore consider the proposal to be contrary to Policies WM2, E1 and E4 of the Adopted Kent and Medway Structure Plan 2006, and Policies W2 and W4 of the Kent Waste Local Plan.
 - The applicant has failed to demonstrate he has control over the passing places required to be maintained for the duration of operations applied for to ensure vehicular and pedestrian safety along High Woods Lane. The proposal is therefore contrary to policy QL17c) of the Kent and Medway Structure Plan and Policies W22, W27 and W33 of the Kent Waste Local Plan.
3. The applicant subsequently appealed against the decision, which was considered by a Planning Inspector by way of an exchange of written representations, for refusal of the application. The appeal was **dismissed** on the following grounds:

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Green Belt

4. *“The site lies within the Metropolitan Green Belt. Paragraph 3.12 of Planning Policy Guidance 2: Green Belts (PPG2) says that the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. In this case the development involves the open storage of green waste and the formation of 4m high windrows; this would have some impact on openness. For this reason the development would be inappropriate development in the Green Belt. PPG2 says that inappropriate development is, by definition, harmful to the Green Belt and that it is for the applicant to show why permission should be granted. Policy SS2 of the Kent and Medway Structure Plan sets out a general presumption against inappropriate development in the Green Belt.”*
5. However, the Inspector considered that this harm is limited due to the small scale of the development and its location within an established farm complex. No new buildings are proposed. Structure Plan Policy WM2 supports small scale composting facilities in the Green Belt provided that certain criteria are met and that there is no severe impact on the purposes of the Green Belt. These criteria include landscape and traffic considerations referred to below.

Effect on the countryside

6. *“The site lies within the AONB where Policy EN4 of the Structure Plan states that the primary objective will be to protect, conserve and enhance landscape character and natural beauty. This development would be sited on existing concrete bases within an established group of farm buildings. There is a public bridleway (WB43) that runs through the farm but as the development would be sited behind substantial buildings either side of this bridleway, the visual impact would be minimal. There would be views of the northern part of the development from a public footpath (WB51) but as the development would be seen against the backdrop of a working farm the visual impact would be limited”. Given there are no dwellings in the immediate vicinity the Inspector did not consider that there would be unacceptable conflict with Policy EN4 or with Policies W2(v) and W10(b) of the Local Plan.*

Highway safety

7. *“The site is accessed via High Woods Lane which is a single track unadopted highway and also serves as a public bridleway and public footpath. It is part of the Tunbridge Wells Circular Walk and the High Weald Landscape Trail. The application form states that the proposed development would involve a maximum of 4 vehicle movements per day; the vehicles would have a maximum capacity of 20t. It is not set out how this level of traffic*

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generation could be regulated or enforced. The deliveries to the site would be by the Borough Council and by local landscape specialists; a total of around 4000 tonnes of material would be processed each year.

8. *Structure Plan Policy QL17(c) states that the rights of way network will be protected and enhanced; it makes particular mention of the protection of routes open to equestrians. Policy W22 of the Local Plan says that permission will normally be refused if the safety of the highway network is materially adversely affected. Policy W27 of that Plan relates specifically to the impact on public rights of way". The Inspector agreed with officer concerns regarding the potential for conflict between vehicles and pedestrians/equestrians using the public right of way.*
9. *"Little Bayhall Farm is almost 2km from the public highway. High Woods Lane is narrow and in places there is insufficient space for a vehicle to pass a pedestrian; conflict with equestrians would be likely to be problematical. The Council requested details of the passing places; many of these are gateways rather than formal passing places and there is no certainty that these would remain available. The Inspector shares the Council's concerns regarding the maintenance of such passing places and agrees that as a very minimum the long term maintenance of the existing passing places needs to be secured. The road has, in places, poor forward visibility and there is a potential danger to users of the public right of way arising from reversing traffic". The appellant only has control of the lane itself, not the informal passing places and concluded that the development would conflict with Policy QL17(c) of the Structure Plan and Policies W22 and W27 of the Waste Local Plan.*
10. *Having concluded that the development constitutes inappropriate development in the Green Belt and that there is harm by reason of inappropriateness and some loss of openness; that there is limited harm to the landscape quality of the countryside and the AONB; and further harm by reason of the effect on highway safety, it is necessary to consider whether there are any other considerations sufficient to clearly outweigh that harm.*

Other considerations

11. *"Policy W10(a) of the Local Plan states that composting by windrowing is, in principle, suited to a rural area. The scale of the development is relatively small and is related specifically to the established farm. The appellants argue that this site represents the best possible environmental option. It is less than 3km from the centre of Tunbridge Wells so transport costs and pollution would be kept to a minimum. Only local labour would be used. The local door-to-door collections of green waste could be delivered to the site without the need to transfer to larger vehicles. The end product would be used as an agricultural soil conditioner as the farm is large enough to absorb the livestock waste and this additional green waste. It is clearly a sustainable method. The organic commitment of the farm means that the whole process is monitored."*

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Conclusions

12. Overall the Inspector concluded that the proposal would constitute inappropriate development in the Green Belt which, by definition, is harmful. There would also be some limited harm to the openness of the Green Belt. The impact on the character of the countryside and the AONB would be highly localised and not such that it would warrant withholding permission. There would also be the potential for serious conflict between vehicles serving this development and pedestrians and equestrians using High Woods Lane. Control, and thus the long-term maintenance, of these passing places has not been shown to have been secured. On balance he considered that it has not been demonstrated that the material considerations advanced in support of the development were sufficient to clearly outweigh the harm. In his opinion, the development would thus be contrary to the development plan and Government advice and he therefore concluded that the appeal should fail.

Recommendation

13. For Members' information only.

Case Officer: Angela Watts

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Background Documents: See Section Heading
