

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland, Fox Hill, Sturry, Canterbury, Kent.

A report by Head of Planning Applications Group to Planning Applications Committee on 8 December 2009.

Application Reference: CA/09/55 by Mr Martin J. Thomas seeking to extend the operations covered by the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland, Fox Hill, Sturry, Canterbury, Kent.

Recommendation: Permission be Granted subject to conditions.

Local Member: Mr Alan Marsh

Classification: Unrestricted

Site

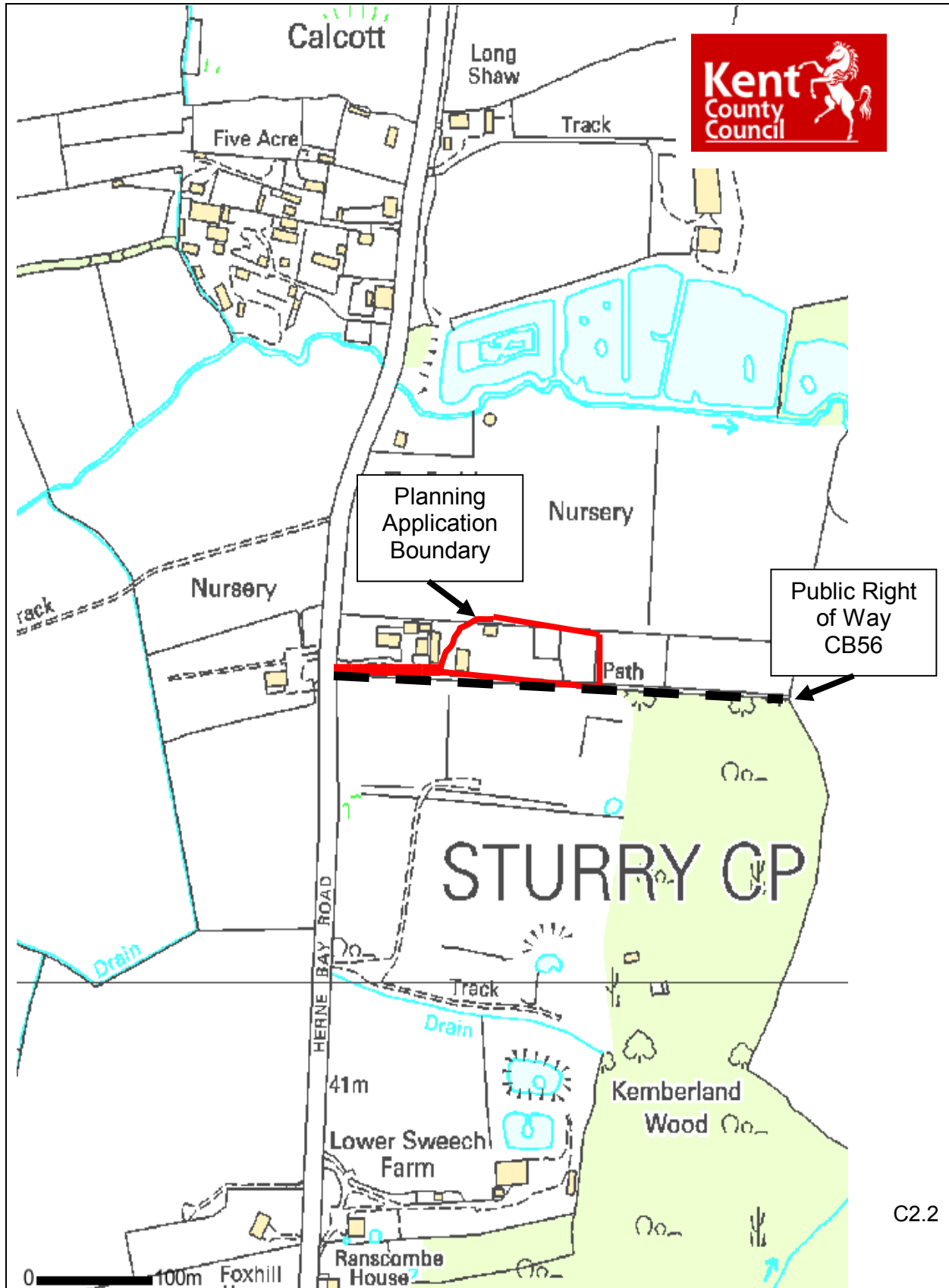
1. The site is located in open countryside adjacent to the eastern side of the A291 Herne Bay Road, north of Sturry. It consists of an existing yard used for the sorting of waste materials imported by skip and contains various stockpiles of materials including hardcore, bricks and timber. Access is via an entrance off the A291 which also serves as an access to two bungalows which are located between the highway and yard. The site is bounded to the east and south by woodland and along the southern boundary there also runs a Public Right of Way CB56.

Planning History

2. In August 2004 Canterbury City Council issued a Certificate of Lawful Use or Development (CLUED) for the site as a concrete and skip business on the basis that such activities had been taking place continuously without interruption more than 10 years before the date of the application for the CLUED. In February 2006 a further application for a CLUED was made to Kent County Council in order to include additional activities not covered in the first CLUED issued by the City Council and which the applicant claimed had also been taking place at the site uninterrupted for more than 10 years. These activities included the screening and sorting of waste imported to the site by skip and the dispatchment of the sorted materials to other businesses and to landfill.

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.



Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

3. As part of these operations it was claimed that a screener and crusher were brought on site and used as and when required. As part of its consideration of the application, whilst the County Council were satisfied on the basis of the evidence submitted that the sorting and separation of waste had taken place at the site, with regard to the crushing and screening activities it was considered there was insufficient evidence to satisfactorily demonstrate that these had also been undertaken continuously for 10 years. Accordingly when the CLUED was formally issued it specifically excluded amongst other matters any screening or crushing at the site where it was felt these would need separate planning permission in their own right.

Proposal

4. An application has been submitted to extend the operations covered by the existing Certificate of Lawful Use granted by the County Council to include the mechanical sorting and crushing of incoming generally inert waste which the applicant claims would enable a greater percentage of materials to be re-used. With the exception of the permanent installation of a screener and crusher on site it is not intended that there would be any other changes to the current operational practices. Waste throughputs would remain at the same level permitted under the existing Environmental Permit issued by the Environment Agency (i.e. less than 25,000 tonnes per annum) generating on average some 72 vehicle movements to and from the site each day rising to a maximum of 76 movements per day. Hours of operation would remain at 0700 to 1800 hours Mondays to Fridays and 0700 to 1300 Saturdays with no operations on Sundays or Bank Holidays. In order to mitigate any adverse impacts on the local amenity it is proposed that the machinery would be fitted with full dust and noise suppression systems. Whilst claiming that the Public Footpath which runs along the southern site boundary is rarely used and most likely only used at the weekend, the applicant would also be willing not to operate machinery on Saturday in order to reduce any impacts on the amenity of walkers using this route.

Planning Policy Context

5. **National Planning Policies** – The most relevant National Planning Policies against which this application needs to be considered are set out in MPS2 (Controlling and Mitigating the Environmental Effects of Minerals Extraction in England) which Mineral and Waste Planning Authorities are required to follow in preparing Minerals and Waste Development Schemes and also in considering individual applications for minerals and waste development. In particular it provides advice and guidance on factors to be taken into account relating to dust (Annex 1) and noise (Annex 2). Planning Policy Statement 10 (Planning for Sustainable Waste Management) advises on the need for waste planning authorities to consider the likely impact on the local environment and amenity including impacts from dust and noise (Annex E). Planning Policy Statement 23 (Planning and Pollution Control) requires waste planning authorities to be satisfied there would be no adverse impacts on the local environment before granting permission including impacts on local air quality.

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

6. **South East Plan (May 2009)** – includes policies which set targets for the diversion of waste from landfill (Policy W5) and recycling and composting (Policy W6). Outside nationally designated landscapes planning authorities are encouraged to protect and enhance the diversity and distinctiveness of the region's landscape (Policy C4). Policy C6 requires local authorities to encourage access to the countryside by including amongst other matters maintaining, enhancing and promoting the Public Rights of Way system.
7. **Kent Waste Local Plan (March 1998)** – Policy W18 requires before granting any permission for a waste management operation the Planning Authority to be satisfied that noise, dust and other emissions can be satisfactorily controlled particularly in respect of its impact on neighbouring land-uses and amenity.

8. **Consultations**

Canterbury City Council: No objections subject to a condition restricting the use of the machinery to day time and weekdays only.

Sturry Parish Council: No comments received.

County Transport Operations Manager: - No objection.

Jacobs (Noise and Dust): - Considers dust is unlikely to cause a nuisance to nearby residential properties provided that the dust suppression systems as detailed in the application are utilised and guidance provided by MPS2: Annex 1 is followed. With regard to noise, is of the opinion that the proposed use of mechanical sorting and crushing machinery could potentially result in detriment to the nearby residential property. Requires therefore an assessment to be undertaken by the applicant to demonstrate predicted noise levels emanating from the site comply with those contained in MPS2. The assessment should include all proposed hours that the plant would operate.

Following the subsequent submission of a separate noise assessment raise no objection to the imposition of a condition restricting maximum noise levels.

Jacobs (Landscape): Welcomes the intention to undertake tree planting along the Public Right of Way to help screen the site but questions whether the proposed species consisting of a series of conifers to stop up gaps in the existing hedgerow is appropriate and considers native species should be included to support the character of the native woodland.

Environment Agency: Raise no objection subject to the storage and sorting of waste being sited on a hardstanding, storage of any fuels, oils or other potentially contaminating materials to be stored such that there would be no discharges to ground and storage of waste on site being sealed and secured at night and when the site is not in operation.

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

Natural England: Has no comments to make on the proposal but would expect the County Council to consider the possible impacts if it falls within An Area of Outstanding Natural Beauty, is on or adjacent to a site of Nature Conservation Importance and whether the proposal represents an opportunity for biodiversity enhancements.

Kent Wildlife Trust: no comments received.

Local Member

9. The Local Member, Mr Alan Marsh, was notified of the application on 12 January 2009. No comments have been received to date.

Representations

10. The application was advertised in the local press, site notices posted on site and one property was notified which falls within 250 metres of the site. As a result some 3 letters of objection have been received from local residents. Their objections raise concerns over fires which are lit on site and the adverse impacts from noise and dust on the locality, including Longshaw Farm Coarse Fishery which lies close to the site.

Discussion

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless other material considerations indicate otherwise. In the context of this application the national policy guidance along with the development plan policies outlined under paragraphs 4 to 6 are of particular relevance.
12. In my opinion having regard to the above policy guidance together with comments made by consultees along with representations received, the main determining issues relate to the potential impacts from the development in respect of noise, dust and the local landscape together with what wider contribution the development would make towards sustainable waste management.

Local Landscape

12. Given the general landscape surrounding the site which largely consists of native woodland, I am satisfied that the additional plant and machinery proposed to be brought onto the site would not result in any significant adverse visual impacts from long distant views of the site. Furthermore, whilst nearby views into the site currently exist from the Public Right of Way which runs adjacent to the southern site boundary, given the comments made by the

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

County Council's landscape advisor, I am satisfied that should members be minded to grant permission, a condition could be imposed requiring further details of planting where gaps currently appear in the existing tree screen such that any visual impact from the development would be reduced to an acceptable level.

Dust

13. Whilst concerns have been raised over nuisance from dust, the County Council's dust advisor has confirmed that provided the dust suppression measures proposed, which include the provision of two Renby Fogging Units on site are utilised in accordance with the guidance set out in MPS2 (Annex 1), dust is unlikely to cause detriment to the nearest residential properties. I would concur with this view, particularly given the additional mitigation that would also be served from the existing trees surrounding the site.

Noise

14. In addition to concerns raised over impacts from dust, given the nature of the machinery proposed to be employed at the site, objections have also been raised over adverse impacts from noise in the locality. Notwithstanding, that the applicant would be prepared to restrict the operation of the plant and machinery to weekdays only, the County Council's noise advisor has advised that a noise assessment be undertaken in order to be able to predict noise levels emanating from the site are able to comply with MPS2. In my opinion, given its location in open countryside where background noise levels would normally be expected to be relatively low, as a minimum such an assessment should include a background noise survey in order to determine baseline levels against which the predicted increase in levels when the machinery is in operation can be assessed. This in turn would then help identify the need for any mitigation measures that may be required to reduce noise to an acceptable level, including for example the installation of acoustic screens. The potential impact from noise is not only a material consideration in relation to the possible affects on residential properties but is also significant in terms of how this may affect the amenity of the users of the Public Right of Way which runs along the southern boundary of the site and where policy C6 of the South East Plan seeks to maintain and enhance such routes.
15. In response to the recommendation made by the County Council's noise advisor the applicant commissioned a separate noise assessment. The assessment included measuring existing background levels at the nearest residential property which is situated some 150 metres to the north of the site. The measured noise level at this location was 50 dB (A) with occasional peaks of 86 dB (A), the dominant noise source being local traffic on the A291 Herne Bay Road. The assessment recommended that the additional noise from the proposed plant and machinery should be designed such that the resultant noise level measured at the nearest residential property is at least 5 dB (A) lower than the existing background levels. Therefore noise from the plant and machinery should not exceed 45 dB (A) when measured at this location.

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

16. In order to achieve these levels the assessment calculated that the plant and machinery selected would need to emit a maximum noise level of no more than 78 dB (A) each when measured at a distance of 3m. This calculation for distance propagation assumed no attenuation for any screening in order to represent a ' worse case ' scenario.
17. The noise assessment also considered the impact on the users of the public footpath that runs along the southern boundary of the site and calculated that the section of the path closest to the plant would experience a level of around 67 dB(A). The assessment recommended that suitable acoustic screening be provided either around the plant itself or on the southern site boundary. With the benefit of such screening it predicted that noise levels would be reduced by some 10 dB(A) to around 57 dB(A) which it considered to be an acceptable level and not be detrimental to the users of the footpath. The assessment recommended that the height of the screen should be at least 0.5m higher than the top of the plant and extend to at least 1.5m beyond it preferably with an angled return at each end. The final dimensions of the screening will be determined according to the specific plant employed at the site.
18. On the basis of the noise assessment and its conclusions the County Council's noise advisor has raised no objection to the proposal and recommends that a condition be imposed on any permission requiring that in accordance with BS 4142, the noise rating level at the receptor location shall be no less than 5 dB lower than the background noise level as measured at the closest residential property. In his opinion this would ensure that activities on site do not result in any adverse impact at either the nearest residential property or the fisheries located a further 50m from the application site. Should members be minded to grant permission I would further recommend that a condition be imposed requiring details of the design and location of the proposed acoustic screen to be submitted and approved prior to the installation and operation of the plant and machinery on site.
19. Having regard to government advice and the relevant development plan policies relating to noise, in my opinion provided conditions as recommended in paragraph 18 above are imposed on any future permission there would be no overriding objections on the grounds of noise.
20. Finally, with regard to complaints about fires at the site, given that there is no express planning permission or conditions preventing fires from being lit, this is more a matter for either the Local Environmental Health Department who may be able to take action against where a statutory nuisance is being caused or the Environment Agency who regulate operations under a separate permit.

Item C2

Application to extend the existing Certificate of Lawful Use to include the mechanical sorting and crushing of incoming generally inert waste material to recover a greater percentage of re-usable materials. Land to the rear of Kemberland , Fox Hill, Sturry, Canterbury, Kent.

Conclusion

21. There is general policy support in principle towards recycling as one of a number of means of achieving the diversion rates away from landfill as set out in the South East Plan. However, each application has to be determined on its merits, against which relevant government guidance and development plan policies together with any other material considerations need to be taken into account. The site is currently operated as a skip hire business together with the sorting, separation and re-use of inert and semi-inert waste. These uses are operating under the benefit of Certificates of Lawful Development previously issued by Canterbury City Council and Kent County Council, and which have therefore effectively legitimised the use of the site as a permanent waste management facility at this location. Following formal consultations on the application and with the benefit of additional supporting information in respect of noise impacts, I am satisfied that with the imposition of appropriate conditions as recommended, operations would be satisfactorily controlled such that they would have no adverse impacts on the local amenity. In my opinion the proposal is consistent with the objectives of both national and regional policy and accords with the development plan in so far as the employment of the additional plant and machinery would lead to an increase in the percentage of materials recycled at the site and in turn help achieve the diversion rates sought away from landfill.

Recommendation

22. I RECOMMEND that PERMISSION BE GRANTED, SUBJECT TO conditions covering amongst other matters hours of working, noise controls, details of acoustic screening, landscaping, waste types and maximum throughputs, maximum traffic movements, sorting and storage of waste to be sited on a hardstanding, fuel storage, implementation and maintenance of the dust suppression system, the site layout including the location and use of the screener and crusher to be in accordance with drawing WMG 2a, details of the screener and crusher being submitted and approved prior to being introduced on site and stockpile heights.

| |
|----------------------------|
| Case Officer: Mike Clifton |
|----------------------------|

| |
|--------------|
| 01622 221054 |
|--------------|

| |
|---|
| Background Documents: See Section Heading |
|---|