
Shipbourne Borough Green And Long Mill	557861 151877	28.03.2006	TM/06/00358/FL
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Proposal:	Section 73A retrospective application: Installation of replacement treatment plant
Location:	The Meadows Hildenborough Road Shipbourne Tonbridge Kent TN11 9QA
Applicant:	Mr And Mrs T Mullally

1. Description:

- 1.1 The proposal seeks retrospective planning permission for the installation of a replacement sewage treatment plant in the form of a "Klargester" septic tank.
- 1.2 This treatment plant is to serve the replacement dwelling, which is now occupied. The treatment plant replaces the one which served the old dwelling, which has now been demolished.
- 1.3 The clean-water discharge is via a soakaway, linked to the existing drainage system, which served the previous septic tank system.
- 1.4 The installation of a treatment plant would normally be regarded as falling within Class E, Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1998. However, these rights were removed by virtue of condition 4 of planning permission TM/00/2509/FL, which stated that:

'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D, E and F of Part 1, nor within any Class of Part 6 of Schedule 2 of that Order on the land edged in red on the location plan received on 18 October 2000 unless planning permission has been granted on an application relating thereto.

Reason: The site lies within the Metropolitan Green Belt and outside the settlement confines of Shipbourne. Any further extensions and additions to this property may be disproportionate to the size of the original building which would harm the openness of the Metropolitan Green Belt.'
- 1.5 The application plans have been amended following initial concerns over their accuracy, but I am now satisfied on this point.

2. The Site:

- 2.1 The site is located outside the village confines of Shipbourne, in the Metropolitan Green Belt and in a Special Landscape Area. The site is adjacent to an Area of Outstanding Natural Beauty.

2.2 The driveway leading to the site from Hildenborough Road is not in the applicant's ownership. This driveway continues along the eastern boundary of the site, to serve other properties, and is lined with Horse Chestnut trees, protected by a Tree Preservation Order.

3. Planning History (most relevant):

3.1 TM/05/02436/FL Refused 13.02.2006
Creation of new access and realignment of hedge.

3.2 TM/05/00546/ORM Approved 26.04.2005
Minor amendment to planning permission ref. TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) involving alterations to positioning of single storey projection on rear elevation.

3.3 TM/04/02140/FL Approved 12.08.2004
Application under Section 73 to vary condition 10 of consent ref. TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) to alter the ground level at which the dwelling is constructed.

3.4 TM/04/00952/ORM ORM Refused 16.08.2004
Minor amendment to planning permission TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) involving dormer windows and loss of dormer window on side elevation.

3.5 TM/00/02509/FL Granted 06.07.2001
Demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage.

4. Consultees:

4.1 PC: No objections – subject to all necessary regulatory consents being obtained.

4.2 EA: Under the terms of the Water Resources Act 1991, written approval of the Environment Agency is required for any discharge of sewage or trade effluent into controlled waters, and may be required for any discharge of sewage or trade effluent from buildings or fixed plant into or onto the ground or into waters which are not controlled waters.

4.3 KCC (Highways): No objections.

4.4 DHH: No objections.

4.5 Private Reps: Art 8 Site and Press Notice + 3/0X/0S/2R. Two letters received, objecting on the following grounds:

- The layout plan submitted is stated to be on a scale of 1:200, but it does not fit the independent surveyor's plan;
- The statement made by the applicants that the tank is over 4m from the trees protected by a TPO is inaccurate;
- The tank appears to have been sited closer to the new house than 18.5m according to the independent survey plan and the layout plan;
- The distance between the external wall of the new house and the iron boundary appears to measure 5m. On the independent survey plan it measures 6.3m. Therefore the distance between the young tree and the tank must be less than 3m;
- The trench that was dug to insert the tank has severed much of the root system of the Horse Chestnut trees, protected by a TPO, and is under the canopy of the mature trees;
- The applicants had a duty to inform planning officers of this so that steps could be taken to locate the tank further into the site, away from the trees;
- The roots of the mature protected trees in the adjacent driveway have been damaged and the roots of the young tree in the driveway will be damaged unless the pipework and the treatment plant are all dug up and the plant and pipework is re-sited away from the boundary and the protected trees;
- Since the trench was dug last year the surface and underground water is tracking down the pipeline and pouring onto the verge, causing the adjacent young tree to sit in a large puddle of water on the surface, which is mirrored below ground, and is likely to lead to it dying;
- The siting of the treatment plant is contrary to the instructions from Klargester;
- The installation of the tank was not verified by a qualified specialist or commissioned by an approved engineer;
- The BioDisc was not placed on ground that is flat and level to evenly support the base of the unit;
- The discharge does not have the consent of the relevant Environmental Regulator;
- Ground conditions and the water table level have not been assessed. The instructions state that if the water table will be above the base of the unit at any

time of the year, adequate back-fill must be provided to avoid flotation. In poorly drained ground, consideration should also be given to the likelihood of flotation due to surface water collecting in the back-fill. The inlet drain trench will act as a land drain, directing surface water to the back-fill around the unit. The objector has provided a photograph of the treatment plant last year when it had toppled over after installation and is concerned that it has been kept in the same position despite the site being higher than the adjacent driveway;

- A porosity test has not been carried out in accordance with the relevant standards to assist in assessing sub-soil drainage and designing the sub-surface irrigation system;
- There is not at least 1m of clear, level ground all around the unit to allow for routine servicing;
- The unit has not been sited within 30m of hardstanding to allow access for a vacuum tanker;
- The unit has not been sited with consideration to prevailing wind direction, which the objector believes to be south-westerly across the adjacent driveway;
- The installation is not in close proximity to a mains water pipe connection point for maintenance purposes;
- The installation has not been carried out by a suitably qualified contractor in accordance with health and safety legislation;
- The unit has been installed in unstable ground conditions, where the connecting pipework should have been designed to minimise the risk of damage from differential movement of the unit and/or surrounding material;
- The units have not been back-filled.

5. Determining Issues:

- 5.1 The main determining issues associated with the application relate to whether the proposal will have a detrimental impact on the amenity of the locality, including whether adequate steps have been taken to avoid pollution, and whether the proposal would have a detrimental impact on the adjacent trees, which are protected by a Tree Preservation Order.
- 5.2 Policies MGB3 of the KSP and P2/16 of the TMBLP state that long term protection will be given to the Green Belt.
- 5.3 The principle of having a new septic tank, to replace the existing one, formed part of the planning permission for the replacement house (TM/00/02509/FL). Much of the tank is positioned below ground level and, therefore, I am of the opinion that

the proposal will not be detrimental to the amenity of the surrounding countryside or functioning of the MGB.

5.4 The Council's Landscape Officer has inspected the site to assess the impact of the installation on the nearby trees. Whilst it is apparent that a few small tree roots have been cut through to install the system, there were no major structural roots evident and therefore I am of the opinion that it should not harm the protected trees.

5.5 I note the concerns raised with respect to the procedures followed to install the treatment plant. I am advised by the Council's Chief Building Control Officer that the proposal has satisfied the necessary Building Regulations requirements. In these circumstances, those particular issues do not fall within the remit of material planning considerations as they are adequately dealt with under other legislation.

6. Recommendation:

6.1 **Grant Planning Permission under Section 73A**, as detailed in letters dated 31.01.2006 and 25.03.2006 and plan no ST/1/A and details date-stamped 02.02.2006.

Informative:

1 In implementing the above consent, regard should be had to the requirements of the Bye-Laws of the Environment Agency, Orchard House, Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH. (Q023)

Contact: Glenda Egerton