

Alleged Unauthorised Development

West Malling

09/00105/UNAWKS

567310 158179

West Malling And
Leybourne

Location: Appledene Farm Norman Road West Malling Kent

1. Purpose of Report:

- 1.1 To report alleged development being the construction of an earth bund along the road frontage of the site adjacent to Norman Road and the erection of wooden fencing at the main entrance to the land know as Appledene Farm Norman Road West Malling Kent.

2. The Site:

- 2.1 The land is situated on the edge of the historic rural town of West Malling on the north side of Norman Road and between Norman Road and the Maidstone to London Victoria Railway line that runs from east to west and forms the northern boundary of the site.

3. History:

- 3.1 TM/04/01954/FL Refused
Stationing of caravan on a temporary basis.
- 3.2 TM/75/10936/OLD Refused
Outline application – Bungalow for use in connection with fruit holding
- 3.3 TM/71/10728/OLD Refused
Outline application for bungalow, garage and access.
- 3.4 TM/61/10434/OLD Refused
An outline application for residential development.
- 3.5 TM/53/10280/OLD Approved
Outline application for one dwelling (Agricultural) and Access.
- 3.6 TPO Confirmed West Malling No. 3 2004
- 3.7 Article 4 Directions: Served 17 June 2009
Withdrawing permitted development rights in respect of certain Classes within Parts 2,4,5, 6 & 9.

4. Alleged Unauthorised Development:

- 4.1 Without planning permission an unauthorised engineering operation being the creation of an earth bund and the erection of a wooden fence that exceeds 1.0m in height adjacent to the highway used by vehicular traffic.

5. Determining Issues:

- 5.1 In March 2009 it became apparent that works had been carried out at the above site with the creation of an earthbund to the front of the site. The creation of the bund has left the appearance of a trackway as the soil has been scraped up and piled along the front boundary, leaving deep excavations over 1m wide, therefore giving the appearance of trackways. A wooden fence, which is over 1m in height, has also been erected at the front of the site, adjacent to the highway, on the western boundary with Appledene Bed & Breakfast to the site access. The earth bunds and the fencing do not benefit from any permitted development rights and require specific planning permissions in their own right because the creation of the bunds is an engineering operation and the fence is too high.
- 5.2 For information a large pit has been dug out within the site and the soil piled around the pit, therefore creating further bunds. It is not clear what the pit is actually being used for and what it is to be used for in the future. Although this is development which requires permission, due to its location the works are not readily visible and therefore it is not expedient to take further action.
- 5.3 Further works which have taken place within the site include the removal of trees and overgrowth, scraping up of soil within the site to create a strange footprint and odd sections of Willow type fencing erected sporadically throughout the site with very small Conifer type trees planted in front. Within the site a number of small solar lights have been installed. During the visits a 4 x 4 vehicle has been on site together with a tent.
- 5.4 A letter was left at the site for the owner/occupier to contact the Council to arrange a meeting and advised not to carry out any further works until a meeting had been held.
- 5.5 On the 2 April a meeting was held on the site. Two Enforcement Officers attended, plus the Area Planning Officer. The gentleman who we met introduced himself as the owner of the site. This gentleman was advised to remove the earth bund and the fencing and to cease any further works on the site.
- 5.6 A letter was written to this gentleman on 15 April confirming what was discussed on site advising him to remove the earth bund and fencing and to write to the Council before any further works were carried out.
- 5.7 A further site visit was carried out on 12 May 2009 and further works had taken place. Part of the earth bund had been repositioned, the rest of the bunding still remained and the wooden fence was still in place.

- 5.8 A further letter was sent to the gentleman who we met on site dated 15 May 2009 informing him that as the breaches of planning control were still occurring, further enforcement action was now being considered and advising that all works should cease immediately.
- 5.9 It is clear from the site inspections that the breaches of planning control are still occurring. The gentleman who we met on site has not rectified the breaches, therefore I feel it is expedient to take enforcement action to seek the removal of the earth bund and the section of wooden fencing which is over 1m in height adjacent to the highway as they constitute inappropriate development harmful to the openness of the Metropolitan Green Belt and they injure the rural amenity of the area.

6. Recommendation:

An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

Breach Of Planning Control Alleged

Without planning permission an unauthorised engineering operation being the creation of an earth bund and the erection of wooden fencing over 1m in height adjacent to a highway used by vehicular traffic.

Reasons For Issuing The Notice

It appears to the Council that the above breach of planning control has occurred within the last 4 years.

The site lies within the Metropolitan Green Belt. Planning Policy Guidance Note 2: Green Belts sets out national planning policy for Green Belts. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Green Belts help to protect the countryside by maintaining the openness and assist in moving towards more sustainable patterns of urban development. The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Inappropriate development is, by definition, harmful to the Green Belt.

Policies SS2 of the Kent and Medway Structure Plan 2006 and CP3 of the Tonbridge and Malling Core Strategy 2007 reaffirm the national planning policy at a strategic and local level.

Policy SP5 of the South East Plan 2009 sets out the Regional policy for development within and proposals affecting the Green Belt. Policy SP5 states that "...the opportunity should be taken to improve their land-use management and access as part of initiatives to improve the rural urban fringe." The South East Plan seeks to focus new development in to sub-regions and existing settlements and reinforces the importance of maintaining the separation of settlements.

Policy CP24 of the Tonbridge & Malling Core Strategy 2007 relates to the Quality of Life and achieving a high quality environment. CP24 states that "Development, which by virtue of its design would be detrimental to the built environment, amenity or functioning and character of a settlement or the countryside will not be permitted."

Policy CP14 of the Tonbridge & Malling Core Strategy 2007 restricts development in the countryside. Among other accepted developments (such as extensions to dwellings or one-for-one replacement of houses) is "development that is necessary for the purposes of agriculture or forestry, including essential housing for farm or forestry workers" and "any other development for which a rural location is essential." Within the Green Belt inappropriate development which is otherwise acceptable within the terms of CP14 will still need to be justified by very special circumstances.

The size, height and bulk of the bund causes demonstrable harm to the visual and rural amenity of the area and materially affects the openness of the Metropolitan Green Belt.

Requirement

To remove the earth bund and to regrade the land to its former level and to remove from the front of the site the wooden fencing and all its arisings.

Period For Compliance

One calendar month from the date the Notice takes effect.

Contact: Lesley Wetherill

