

Alleged Unauthorised Development

**Offham
Downs**

08/00608/UNAUTU

565348 156797

Location: Fre Mel Farm Comp Lane Offham West Malling Kent ME19
5PP

1. Purpose of Report:

- 1.1 To report the material change of use of land from woodland to land used as a parking area for lorries and the stationing of metal containers, and the creation of a hardsurfaced area on that land.

2. The Site:

- 2.1 The site lies on the southern side of an unmade track that leads to Comp Lane, joining Comp Lane close to the edge of the village of Offham. The area of land is to the north-east of the farm house which is itself to the north-east of the land that benefits from a lawful development certificate for use as a scrapyard. It is accessed off one of the two tracks that provide access to the scrapyard site.

3. History:

- 3.1 There is no relevant planning history to this site.

4. Alleged Unauthorised Development:

- 4.1 The unauthorised material change of use of land from woodland to land used for the parking of lorries and the stationing of metal containers, and the creation of a hardsurface on that land.

5. Determining Issues:

- 5.1 The Authority has received several complaints regarding a significant number of movements by large lorries along the unmade track that runs from the site to Comp Lane in Offham. It appears that these movements mainly take place early in the morning. Early morning inspections were carried out, but no evidence was found of early morning movements, as had been alleged. The complaints started some time ago and it was believed that the vehicle movements were emanating from the near-by scrap metal site. Because it was difficult to predict when the vehicles movements would take place, it has proved difficult to obtain evidence of whether there was a breach of Planning control and, if so, what that breach amounted to. However it is now clear that vehicles are parked on a different site from the scrapyard, some distance to the north-east. The access to this land is off one of the unadopted tracks that also serve as access to the scrapyard and other premises in the vicinity.

- 5.2 In 2003 Kent County Council undertook a full aerial survey of the County. The photographs from this survey clearly show that the area where the vehicles are being parked was at that time covered by woodland. It is now apparent that an area of this woodland has been cleared and a surface laid, and that lorries are being parked within the site and large metal containers stored on the land. The use of the land for this purpose is a material change of use that requires planning permission. The laying of the hard surface is a building, engineering or other operation that constitutes development and also requires planning permission. No planning permission has been granted for either the change of use or the operational development, and these activities are therefore unauthorised.
- 5.3 The site lies within the Metropolitan Green Belt, and within a Site of Nature Conservation Interest. Within the Green Belt, Government guidance contained within PPG 2 applies. Paragraph 3.12 of PPG 2 says that the carrying out of such operations as exist here and the making of material changes in the use of land are inappropriate in the Green Belt unless they maintain the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. Paragraph 1.5 defines the purposes of including land within the Green Belt, one such being to assist in safeguarding the countryside from encroachment. The development does harm the openness of the Green Belt, with the introduction of parked vehicles and storage containers, both of substantial size, and the formation of an alien hard-surfaced area.
- 5.4 The development is clearly inappropriate development within the Green Belt. The development also represents an encroachment into the countryside which is contrary to one of the aims of the Green Belt. PPG 2 also states at paragraph 3.1 that there is a general presumption against allowing inappropriate development which should not be permitted, except in very special circumstances.
- 5.5 Policy CP3 of the Tonbridge and Malling Core Strategy 2007 states that proposals within the Green Belt will be considered against National Green Belt policy. 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.
- 5.6 Policy CP24 of the Tonbridge & Malling Core Strategy 2007 relates to the Quality of Life and achieving a high quality environment. CP24 states that all development must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings. Policy CP1 says that, in determining planning applications, the quality of the natural and historic environment, residential amenity and land, air and water quality will be preserved and, wherever possible, enhanced. I am of the opinion that this development is of a character and appearance that is alien to this rural site and its countryside surroundings. In addition to its visual

impact, the use also gives rise to HGV movements along the unmade track and along rural roads, passing at close quarters a number of residential properties in doing so. This is harmful to the amenity of the affected residents, as well as to the rural character of the area generally. For all these reasons, it does not meet the objectives of policies CP1 and CP24.

- 5.7 Policy CP14 of the Tonbridge & Malling Core Strategy 2007 restricts development in the countryside. Development is not to be permitted unless it falls into one or more of a number of specifically identified categories, none of which applies in this case.
- 5.8 The site is within a designated Site of Nature Conservation Interest where, under saved policy P3/2 of the Tonbridge and Malling Borough Local Plan, development will not be permitted that materially harms the habitat or wildlife interest of that area. The removal of the woodland, and the ongoing use, by its very nature involving vehicle movement and parking, has caused and continues to cause such harm and therefore does not meet the criteria of the policy.
- 5.9 For the above reasons, I feel that it is expedient to take enforcement action to seek the cessation of this unauthorised use and the removal of the hard surfaced 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 the change in use of land from woodland to land used for the parking of lorries and the stationing of metal containers, and the creation of a hardsurfaced area.

6.2 Reasons For Issuing The Notice

It would appear to the local planning authority that the breach of planning control consisting of the change of use has taken place within the last ten years and that the breach consisting of the formation of the hard surfaced area has taken place within the last four years. The site lies within the Metropolitan Green Belt, and within a Site of Nature Conservation Interest. Within the Green Belt, Government guidance

contained within PPG 2 applies. In the opinion of the local planning authority, this unauthorised development is inappropriate development within the Green Belt as it harms the openness of the Green Belt, with the introduction of parked vehicles and storage containers, both of substantial size, and the formation of an alien hard-surfaced area. The development also represents an encroachment into the countryside which is contrary to one of the aims of the Green Belt. PPG 2 also states at paragraph 3.1 that there is a general presumption against allowing inappropriate development which should not be permitted, except in very special circumstances. There are no very special circumstances that apply to this development, which is therefore contrary to the intent of PPG2 and policy CP3 of the Tonbridge and Malling Borough Core Strategy and policy SP5 of the South East Plan 2009. Policy CP24 of the Tonbridge & Malling Core Strategy 2007 states that all development must through its scale, density, layout, siting, character and appearance be designed to respect the site and its surroundings. The local planning authority considers that this development is of a character and appearance that is alien to this rural site and its countryside surroundings. In addition to its visual impact, the use also gives rise to HGV movements along the unmade track and along rural roads, passing at close quarters a number of residential properties in doing so. This is harmful to the amenity of the affected residents, as well as to the rural character of the area generally. For all these reasons, it does not meet the objectives of policies CP1 and CP24. Policy CP14 of the Tonbridge & Malling Core Strategy 2007 restricts development in the countryside. Development is not to be permitted unless it falls into one or more of a number of specifically identified categories, none of which applies in this case. The site is within a designated Site of Nature Conservation Interest where, under saved policy P3/2 of the Tonbridge and Malling Borough Local Plan, development will not be permitted that materially harms the habitat or wildlife interest of that area. The removal of the woodland, and the ongoing use, by its very nature involving vehicle movement and parking, has caused and continues to cause such harm and therefore does not meet the criteria of the policy.

Requirement

To cease the use of the site for the parking of lorries and the stationing of metal containers. To remove the hard surface and all arisings from the site.

Period For Compliance

Three calendar months from the date the Notice becomes effective.

Contact: Richard Edmonds