

East Malling & Larkfield **569525 155080** **12 September 2008** **TM/08/02450/FL**
East Malling

Proposal: Proposed backfilling of rear section of pond and repair of pond by laying clay
Location: Corio Farm 450 Wateringbury Road East Malling West Malling Kent ME19 6JJ
Applicant: Mr Walter King

1. Description:

1.1 This proposal is for the repair of the main pond by relining it with clay and for the backfilling of a smaller overflow pond to the rear of the main pond. The rear pond is to be filled with inert soil and laid to grass. This rear pond is approximately 1.2m deep and 31m at its widest point. The applicant indicates that the proposed works are to prevent severe leaks which are "*threatening the fish and wildlife population which depend on the pond for their survival*".

2. Reason for reporting to Committee:

2.1 The application is being reported to committee at the request of Councillor Liz Simpson.

3. The Site:

3.1 The application site lies within a rural area and on the western side of Wateringbury Road. The site lies to the southwest of the residential property of Corio Farm and fronts onto Wateringbury Road, located behind a recently planted landscaped area.

4. Planning History (selected):

TM/81/10135/FUL Application Withdrawn 4 June 1981

Regulation 4 application by T.M.D.C. for construction of underground sewage pumping station and creation of new vehicular access.

TM/81/10600/FUL No Objection 1 September 1981

Regulation 4 application for construction of underground sewage pumping station and creation of vehicular layby.

TM/83/10044/FUL Grant with conditions 18 October 1983

Raising of land levels to restore land for agricultural use.

TM/84/10094/FUL Grant with conditions 31 August 1984

Continuation of tipping activities without compliance with condition (ii) of planning permission TM/83/694.

TM/85/10350/FUL Grant with conditions 29 May 1985

Continuation of tipping activities until 31st October 1985 i.e. without compliance with condition (I) of Planning Permission TM/84/876.

5. Consultees:

- 5.1 PC: No objection to the backfilling provided the infilled area remains part of the garden as stated and not intended to be an extension of other uses on the site.
- 5.2 DHH: No objection.
- 5.3 KWT: No comment.
- 5.4 EA: No objection to the application and welcomes that the applicant has recognised the need for the re-lining work to preserve the pond. We do however have concerns relating to the proposed infilling of a substantial section of the pond's overall footprint, particularly given that the applicant has indicated in the Planning Statement that it supports "a large natural population of newts, frogs, toads, snakes, voles and all manner of insects". Ponds are now a priority habitat and rather than infilling the damp overflow section, the area be enhanced as a wetland area, which will complement the pond and greatly improve the biodiversity value. We would advise that Natural England should be consulted.
- 5.5 Natural England: The site has the potential to support great crested newt population and a habitat suitability indices survey would be appropriate to establish the likely presence or absence of any such population prior to the works being undertaken. In the event of the habitat being found to be suitable for great crested newts, appropriate mitigation measures could then be taken. Natural England has no objection to the proposal, but recommends such a survey is undertaken in order that the applicant complies with the relevant protected species legislation. This is an advisory remark and in this case the applicant is under no obligation to take up the recommendation.
- 5.6 Private Reps: One letter received supporting the proposal, as the repair of the pond to the condition it was before it sprang a leak would be a welcome return to the local amenities. Hopefully it would encourage the retention of some of the wildlife displaced by activity and clearance of the Airfield and Heath Farm.
- 5.7 A8 Site Notice: No response.

6. Determining Issues:

- 6.1 The main issues to be considered are whether the proposal works will detract from the visual amenity of the locality and whether the works will harm the nature conservation interest of the site.
- 6.2 The proposed engineering works are intended to restore an existing pond by carrying out repairs to the clay lining to allow the water levels within the pond to rise back to their former point, some 4.5m higher than the current water levels. It is also proposed to backfill the rear pond which was originally designed as an overflow pond to the main pond. These proposed works are intended to deal with the severe leaks that the applicant claims that the ponds have experienced. In terms of the visual impact, the raising the water levels within the main pond is welcome, as the water feature will become prominent, rather than just appearing as a hole in the ground. Whilst the rear pond is to be infilled and a water feature in the landscape lost, subject to a sensitive landscaping scheme, the proposed resultant works will not significantly detract from the visual amenity of the locality.
- 6.3 The applicant has indicated that both ponds have wildlife interest, but that the works are intended to enhance the wildlife interests in the main pond. The lost of the rear overflow pond, will potentially have an impact on wildlife interests, but in part this is counteracted by the improvements to the main pond to improve its wildlife interests. Members will note that KWT have not raised any objection to these works and that Natural England raise no objection subject to a survey and potential mitigation measures being carried out prior to development commencing if any protected species are found, such as great crested newts.
- 6.4 In light of the above considerations, I am satisfied that the proposal works will not detract from the visual amenity of the locality and will not harm the nature conservation interests of the pond subject to the imposition of conditions. Therefore I support this proposal.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Other validation checklist dated 08.08.2008, Planning Statement dated 08.08.2008, Design and Access Statement dated 08.08.2008, Site Plan dated 08.08.2008, Block Plan dated 12.09.2008, Section dated 12.09.2008, Letter dated 23.02.2009 subject to the following conditions:
- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 3 No development shall take place until full details of inert soil and its origin has been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the wildlife interests or results in pollution.

Informative:

- 1 You are also advised that, in undertaking the works hereby approved, due regard should be had to the provisions of the Wildlife and Countryside Act 1981 relating to the protection of species and habitats. The applicant is recommended to seek further advice from the Natural England, The Countryside Management Centre, Coldharbour Farm, Wye, Ashford, Kent, TN25 5DB.
- 2 In order to ensure compliance with informative 1, you are advised that before any works commence on site a Habitats Suitability Indices survey shall be carried out. Details of the survey and an assessment of the impact of the proposed development and any appropriate alleviation measures shall be submitted to and approved by the Local Planning Authority as a matter of record.
- 3 The applicant is advised that the engineering works to the ponds should be carried out during reasonable working hours, such as between 07:00 to 18:00 Monday to Friday (excluding public holidays) and 07:30 to 12:00 on Saturdays to avoid disturbance to the locality.

Contact: Aaron Hill