

4. Planning History:

TM/12/03806/FL Application Withdrawn 29 August 2013

Change of use from agricultural to a "natural burial ground". Construction of a memorial building, ancillary building and car parking. Creation of vehicular and pedestrian access onto Common Road

03/00083/UNAWKS Enforcement Notice Served 24 February 2003

The erection of fence posts in such a manner as to create or give the impression of the formation of means of enclosure

- 4.1 The site is also subject to Article 4 Directions that were served on 20 February 2003 to remove certain permitted development rights. These Directions were confirmed by the Secretary of State and remain in force. The Directions remove the rights to construct gates, fences and other means of enclosure; vehicular access; 28 day use rights; temporary and moveable buildings, structures, plant or machinery; various restrictions relating to agricultural buildings and operations on land under five hectares; repairs to unadopted streets and private ways and electricity undertakings.

5. Consultees:

- 5.1 Aylesford PC: Object to the current bund. There would be no objection if the bund was completed in accordance with the application, on land for which the applicant has tenancy. It was originally stated that the application excluded the bund which had been formed on the northern side. The Parish Council does not raise any objections to the additional information.
- 5.2 Burham PC: Notes the area has stood for years without these bunds and now the owners claim that they are required for protection. The bunds are considered to be an eyesore. The act of digging out will cause soil erosion and a potential drowning hazard. If access is to be restricted for security reasons then a fence should be erected.
- 5.2.1 Additional comments: This application is an environmental disgrace and looks like World War trenches. It is also an eyesore and the trenches are not necessary and the area should be returned to its original condition.
- 5.3 Private Reps7/0X/1R/0S + site + press notices: One representation received. It is considered that the bund is badly constructed, has total soil inversion and is completely out of keeping with the AONB. No objection if the bund were to be constructed as shown as it would be reasonably unobtrusive and would stop the ingress of motor cycles and 4 x 4 vehicles. If the topsoil was on the surface it could soon grass over.

6. Determining Issues:

- 6.1 The main consideration is whether the creation of the trenches and bunds are acceptable in this rural location within the Strategic Gap and AONB, having regard to visual amenities, the nature of the area and landscape character. Core Strategy policies CP7 (development in the AONB), CP5 (development in the Strategic Gap) and CP24 (standard of development) are relevant to the determination of the application. Also relevant are MDE DPD policies SQ1 (development should protect, conserve and where possible enhance the local distinctiveness of the area) and DC6 (development should conserve and where possible enhance the character of rural lanes).
- 6.2 As mentioned above, this site lies in a rural area that is protected by the AONB landscape and Strategic Gap designations. These state that development would not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the AONB landscape or where it compromises the function of the Strategic Gap. Common Road has remained historically a Quiet Lane leading out into the open countryside where the rural character of the area has been maintained.
- 6.3 The southern field boundary to Common Road currently comprises a mix of hedging and some established trees, whilst the field comprises generally flat open grassed land. The bund/trench arrangement is in place but is not clearly visible or obtrusive when travelling along Common Road. The works do not stand out as a prominent feature in the landscape.
- 6.4 It is appreciated that the works on site do not entirely match the details shown on the drawing and that the bunds comprise the red coloured excavated soil with flints. It is suggested that the appearance of the bunds could be improved if they were to be seeded with a suitable species for the location. In their current form the bunds are not considered to be unacceptably harmful to the AONB, but a certain amount of re-profiling and the addition of grass seed would be of benefit to enhance the visual qualities of the area. In my opinion, the limited visual intrusion caused by the bunds is justified in the interests of preventing unauthorised access to the land, given the history of the site; in principle, it is an entirely appropriate way of addressing that particular issue, in this isolated rural location. In general the bunds and trenches do not result in any harm to the Strategic Gap.
- 6.5 The comments of the Parish Councils are noted. The plans have been amended to show the area to the north of the site which also has a bund/trench arrangement. The comments about the trenches presenting a drowning hazard are noted. Whilst the Council would not wish to encourage such a situation it would be difficult to withhold planning permission for this reason, given that similar excavations could occur on farmland and other rural sites throughout the Borough and, in many instances, might not require the submission of a planning application. The use of a

fence, as suggested by the Parish Council, for security purposes could represent a visually harmful feature in this location when compared to the low key bunds and would not be appropriate given the Article 4 Direction restricting fences in the area.

- 6.6 The bund/trench arrangement, whilst a man-made feature, does not result in material harm to the character of Common Road or to the visual qualities of this part of the AONB in general. Given that the application is retrospective it is considered appropriate to impose a condition on any planning permission that may be granted, requiring the bunding to be adapted so that it is in conformity with the submitted plans within 3 months of permission being granted and to be seeded with an appropriate grass mix within the first available planting season thereafter.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 31.07.2013, Site Plan dated 31.07.2013, Drawing BUND AND TRENCH dated 31.07.2013, Drawing received 1.10.2013, subject to:

Conditions / Reasons

- 1 Within three months of the date of this planning permission the trenches and bunds that have been constructed on the site shall be adapted so that their form and profile are in conformity with the details shown on the approved plans. The bund shall be seeded with a grassland mix, the details of which are to be submitted to and approved in writing by the Local Planning Authority beforehand, and the seeding shall be undertaken within the first planting season following the completion of the bund.

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.

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