

Platt
Borough Green And
Long Mill

4 April 2017

TM/17/00798/FL

Proposal: Creation of new vehicular access, with entrance gates, to
orchard and woodland
Location: Land At Long Wood Off Crouch Lane Borough Green
Sevenoaks Kent
Applicant: Mr & Mrs Baillie
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1. Description:

- 1.1 Planning permission is sought for engineering works to construct a new vehicle access to some 15ha of woodland that the applicant owns to the north-west of Crouch Lane/south of Borough Green. The access is required for the purposes of maintaining and caring for the woodland. The applicants have stated that they need to maintain the woodland in order to meet public liability insurance requirements as the site is often accessed by the general public on an unauthorised basis. A new access to this site is now required as the applicants can no longer gain access in the way that they had previously, due to a dispute over land ownership where the original access gate is.
- 1.2 Where the application site abuts Crouch Lane there is a notable ground level change, with the woodland being between 0.5-1m above the adjoining road level. The application includes a plan to show the position of the proposed access along the site's boundary with Crouch Lane, and includes cross sections to show the degree of engineering works (i.e. cutting in) that would need to be made to the bank to achieve vehicle access into the site. Within the application it is stated that no retaining walls would be necessary and the proposed access would create a passing point in Crouch Lane which would be a benefit to all road users. The application has been accompanied by a tree survey as 6 trees are required to be removed to make way for the access: the majority of trees to be removed are Field Maples – 1 Category B tree and 5 Category C trees are proposed to be removed.
- 1.3 The application details that access would be made by pulling back the embankment from the road creating a recess, with tarmac surfacing added and a new gate installed. The gates require planning permission as they form part of the proposed engineering works and they would be set back sufficiently (6m) to allow for cars/machinery to be off the road safely.
- 1.4 In support of the application, the applicants have submitted an email that seeks to address some of the points that have been raised during the consultation process. This email is summarised as follows:

- *At the current time there is no direct and immediate vehicle access into the woods from a public highway in Basted Mill nor in Crouch. The only place the woods immediately borders the public highway and direct vehicle access is possible is the stretch of land we have proposed putting the entrance on. The initial purpose is as stated, to access the orchard area to allow us to continue what we have started to do, which is return the area to how it was before many of the fruit trees were removed and saplings planted in their place. We believe this happened some 20 years or so ago. It then provides us with a better more suitable access point to allow any future activities that are required to better manage the ancient natural woodland in Longwood. This future activity would only be attempted with expert involvement and in consultation with TMBC given the blanket TPO that covers Longwood.*

- *Accessing from Basted Mill:*

To get to the gate to the woods by using the entrance to our current residential property presents a number of challenges - Existing lightweight bridges in our property would preclude any larger forestry machinery that is required from safely entering here, driveway width and restricted layout would also prevent them even getting to the bridges in the first place. The direct route to the gate in our fence is over the current foul water system leading to our septic tank and it would involve driving over the existing septic tank. The land just before the gate is boggy due to natural springs. Between the gate to our garden and the gate to the woods is a public footpath which any equipment would have to cross. The path separates our two parcels of land ownership and at no point do they join. Despite what has been contended there is no track from the gate to the main body of Longwood. When we bought the property no such track existed and there was no evidence of such a track previously existed. Even ignoring all of the other issues above a track could not easily be created here as the area here between the gate and the main body of Longwood is extremely boggy and not suited to have any vehicles on it. In addition the suggestion to create a new track seems to ignore the fact that this section is covered by the whole area TPO. It would certainly entail cutting down many more protected trees than our current proposal envisages.

- *Highway Safety Issues:*

KCC have dealt with this point in their consultation response and have no objection to the proposed access. On the point that the road is too narrow surely the entrance way creates a passing point which is beneficial

- *Street Scene:*

These comments overlook the fact that the somebody falsely reported we were breaching the TPO on Longwood and we were not attempting to flatten the immediate site as alleged. The street scene will be maintained and is entirely

consistent with other entrances along the entire length of Crouch Lane. This application only seeks to remove the younger trees that we have requested to gain access and most will be replaced as per the tree report.

- **Orchard:**

The area is/was an orchard and we seek to return it back to its original state. On previous enquiry when we originally started the work the Forestry Commission confirmed this land was designated as orchard land on their records and system. Not sure how the complainant can make the statement on the apple trees as you would have to have entered the site to establish this. Not sure if this point Orchard vs Woodland has even any relevance.

- **Generally:**

There is no 'legal dispute' regarding access. We do not have a right of access over the private track that goes down to the farm. The Planners have previously confirmed this point. There is no existing means of access.

On discussing another matter a local lawyer drew our attention to the point about our duty to maintain the woodlands and orchard. We are seeking to maintain woodland we own which we think is the right thing to do. We would only carry out work as suggested by expert advice and would not apply for felling licences to simply cut down trees. The reference to felling licence was meant to be in regard to any that would be required to the maintenance of the TPO'd trees.

1.5 Crouch Lane at this point is little more than a single width (approximately 4m in width) rural country lane with no white lining/road markings. There are a number of passing places which have been gradually eroded out of the banks of the lane as a result of the need for two cars to pass side-by-side.

2. Reason for reporting to Committee:

2.1 Councillor Mike Taylor call in due to concerns with dangerous traffic hazard, visual amenity of the countryside and the rural country lane, and that this is a civil dispute.

3. The Site:

3.1 The site includes the applicant's woodland which comprises approximately 15ha of mixed woodland (Oak, Ash, Beech, Alder and mixed coppice). Much of the woodland is covered by a Tree Preservation Order (No. 81/10057/TPO). A smaller Tree Preservation Order also covers a collection of trees (mainly Oak, Field Maple, Hazel and Wild Cherry) along the immediate site boundary with Crouch Lane (No. 13/00012/TPO). The woodland is identified as the Bourne Valley Woods Local Wildlife Site.

3.2 The site is located entirely outside of the settlement confines of Borough Green, is within the open countryside and within the MGB.

4. Planning History (relevant):

TM/94/00324/WG No objection 2 February 1995

Scheme of management of woodland

TM/00/00120/WG No Objection 25 February 2000

Woodland Grant Scheme: woodland regeneration, landscape enhancement and nature conservation by means of coppicing and selective thinning of woodland

TM/15/01553/AGN Prior Approval Required 29 June 2015

Prior Agricultural Notification: Proposed new vehicle access to woodland

5. Consultees:

5.1 Platt Parish Council objects on the following grounds:

- Question why as the applicant resides in Rose Cottage and not Long Wood, can't access be made from their own property;
- Access is to be from Crouch Lane. This is a narrow lane on a bend with no footpath or lighting. It is used by walkers, children and a large volume of traffic. Vehicles frequently have to reverse to allow overtaking.
- To allow another access as proposed would present a further dangerous hazard. The applicants' reference to an orchard at this point is not accepted.
- There has never been an orchard there, it has always been established woodland. Some trees are subject to TPOs and if deemed relevant some 2 years ago, must still be relevant.
- Concerns about the location and construction of the new access and the impact it may have upon the visual amenity of the countryside and the rural country lane - in the MGB and needs to be protected.
- Consider that the applicants' legal dispute over an existing access is not allowed as a valid reason for planning approval within the MGB
- Reference to your comment in Council report regarding Prior Agricultural Notification 5.42 "It is questionable whether the proposed new means of access would be reasonably necessary for the purpose of forestry.....and the existing means of access would be far better"

- Question the applicant suddenly has a "duty to maintain the woodland in their ownership" - If there is a concern about maintenance why was this not continued when the applicant had access and why now? If the applicant is concerned about public liability insurance, which we do not regard as a planning matter, and trespass to his property is rife, surely they should maintain their boundary treatment.
- The applicant's reason is also "to apply for a felling licence to tidy and clear fallen trees and those in poor condition". That is all encompassing; there appears no reference to replacing trees to maintain the appearance of established woodland. We would therefore question why this is being done. One could assume that the applicant now needs a privately owned access from a highways department road with a cleared large site for some unknown reason. Whilst we must accept your mantra of "we can't make our decision on future usage - it will be subject to another planning application" once areas of our green belt are cleared and accessible, they cannot be bought back to what they were.

5.2 Borough Green Parish Council: support the views of Platt PC in that it raises concern about future development. Strongly felt that this application should be refused on Green Belt and Highway grounds.

5.3 Private Reps (Article 15 Site Notice/0X/4R/5S)

5 letters of Support:

- Will improve aesthetic of area and reduce the dumping of rubbish in the locality;
- Much needed passing place and not unusual to see such accesses in the area;
- Only a few trees to be lost so would not cause an issue environmentally.

4 letters of Objection:

- Narrow, dangerous and busy stretch of road and close to a bend;
- Proposed sight lines are inadequate – particularly with the high banks;
- Loss of a large amount of beautiful woodland;
- Will be a driveway to a future property on site;
- Want this picturesque and peaceful lane undisturbed;
- Should use existing access from Basted Mill – once an access point and it could be reopened;

- Access cuts across the TPO area and would therefore spoil the street scene – consider more than 6 trees would need to go – makes a mockery of having the TPO imposed to protect the street scene;
- There is no orchard on this site – it is established woodland.

5.4 KCC Highways: No objections subject to conditions regarding construction method and materials, position of gate and visibility splays.

6. Determining Issues:

6.1 The main issue to consider with this application is the principle of the proposed development bearing in mind that the site lies within the MGB where development is strictly controlled. Current Government guidance concerning development in the Green Belt is contained within section 9 of the NPPF. Paragraph 90 of the NPPF states that engineering operations in the Green Belt are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purpose of including land in the Green Belt. Policy CP3 of the TMBCS 2007 requires developments within the Green Belt to comply with national Green Belt policy.

6.2 TMBCS Policy CP14 details that development in the countryside will be restricted unless it is for one of a number of reasons. These reasons include, *inter alia*, development that is necessary for the purposes of agriculture or forestry, or development required for the limited expansion of an existing authorised employment use, or any other development for which a rural location is essential.

6.3 Both the agents and the applicants have indicated that the reason they require this development is to maintain a woodland, thus the principle of the proposed development is considered acceptable and to accord with Policy CP14.

6.4 TMBCS Policy CP 24 requires all developments to be well designed and to respect the site and wider locality in terms of scale, siting, layout, character and appearance.

6.5 There are concerns about the location and construction of the excavation and new private way and the impact it may have upon the visual amenity of the countryside and the rural country lane. The proposed access and parking area is suggested to have tarmac used which, although more urban in character, it is not out of keeping with other ground materials used in the locality. Although part of the woodland is protected by a Tree Preservation Order, the trees to be removed are not particularly good specimens. The proposed pair of wooden gates is also of an appropriate design and height for this location. Conditions are suggested to ensure that the development proposed is finished to a suitable standard. On this basis the proposed development is considered acceptable and accords with Policy CP24.

- 6.6 The comments made by the PC and other interested parties concerning the applicant's ability to access the woodland from his own property on the other side of Long Wood have been investigated. Due to the topography of the land and the fact that to reinstate an old access would mean taking down many more protected trees in a wood, this proposed access option seems the least objectionable. There appear to be no other viable access points from the public highways to service this protected wood.
- 6.7 The other comments raised by the PC that have not been dealt with in the main determining issues include the designation of the land as an orchard. This area of land was once planted as an orchard and some trees remain towards the area of woodland. Additionally they consider that a legal dispute over a means of access is not a reason to approve planning permission but in this particular case there is no viable alternative means of access to the site than that proposed.
- 6.8 KCC (Highways and Transportation) has no objection on highways grounds, subject to a number of conditions relating to highway safety. It is considered that the application accords with Policy SQ8 of the MDE DPD and Paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the cumulative impacts of development are severe.
- 6.9 In light of the above, I consider that the proposed development does accord with the relevant provisions of the Development Plan and NPPF and therefore I recommend approval accordingly.

7. Recommendation: Approve subject to the following:

Supporting Statement dated 22.03.2017, Tree Report dated 22.03.2017, Tree Protection Plan U606 TPP R1 dated 22.03.2017, Tree Protection Plan U606 TCP R1 dated 22.03.2017, Existing Plans 100A dated 04.04.2017, Proposed Plans 200 A dated 04.04.2017, Location Plan 16-182 SL-01 dated 04.04.2017, Email dated 11.05.2017,

Conditions / Reasons

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. The entrance gates hereby permitted shall be hung to open away from the highway only.

Reason: To enable vehicles to stand off the highway whilst any gates are being operated.

- 3 The proposed materials to be used as indicated on the submitted Plan Dwg. No. 200 / Rev D, shall be used in the construction of the widened surface of the access hereby approved and shall be maintained at all times thereafter.

Reason: In the interests of highway safety.

4. The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
 - (b) No fires shall be lit within the spread of the branches of the trees.
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
 - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
 - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

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

5. The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 0.9 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

6. The access drive shall be constructed no steeper than 1 in 10 for the first 1.5 metres from the edge of the highway and no steeper than 1 in 8 on any other part.

Reason: To ensure the safe and free flow of traffic.

Informatives

1. The applicant should ensure that surface water from the development does not

discharge onto the highway

2. With regard to works within the limits of the highway, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 03000 418181.
3. The applicant is advised to avoid any discharge of mud onto the highway during the construction works

Contact: Rebecca Jarman