

DELEGATED DECISION REPORT

DET/2021/0028
Valid 26/07/2021

HIGH VIEW FARM HOLT
LANE
KINGSLEY

INFILLING OF STEEP SIDED
LINEAR DEPRESSION ON
GRASSLAND WITH CLEAN
CONSTRUCTION WASTE TO
PROVIDE A LEVEL SAFE
SURFACE FOR FARM
VEHICLES (THE AREA IS TO
BE RESURFACED WITH TOP
SOIL INITIALLY REMOVED
AND RESEDED)

(AGRICULTURAL/FORESTRY
DETERMINATION)

MAIN ISSUES

- Whether or not the prior approval of the LPA is required as set out under GPDO Schedule 2 Part 6 Class A – namely as to the:
Siting
- Whether or not this is eligible development under Part 6

DESCRIPTION OF SITE

Rural field location in the Green Belt coming to within a c.100m to 150m radius of the easterly development boundary of Kingsley and in sight of perimeter dwellings of the village. The site would be at c.80m from the nearest public road at its closest.

The proposed site is at the southerly (or SW) head of an initially shallow valley or depression within the fields which quickly steepens north eastwards into a semi-wooded ravine incised into the steep flanks of the Churnet Valley above Froghall.

The site is marked on the OS map as a watercourse and although this was not evident as a free-flowing feature at the site visit, vegetation and nature of the ground suggests water flows may emerge seasonally or in response to rainfall.

A noticeably used public footpath enters the fields from the roadside war memorial to the north and passes the southerly end of the site. The tower of the Grade II Listed church of St Werburgh is visible at some 200m NW of the site.

By reference to the Government's MAGIC map the application site lies within a defined SSSI impact zone.

PROPOSAL

Described by the agent as a repeat of that made under DET/2020/0030 when it was concluded that prior approval was required and also noted:

As this development involves waste materials not associated with development under class A(a) of a farm building nor with provision of a hard surface, the proposed waste deposit appears to the LPA ineligible for determination under Part 6 and a full planning application would therefore be required.

As in the application description. The infilling material is described as “clean construction waste comprising broken brick and concrete” ; area 0.4ha; depth up to 2m (application form box 4) and volume 8,000m³. There is said to have been a previous area of 0.2ha of infilling having been undertaken on the 137ha farm holding.

On drawing HHKE02(1) the maximum depth of fill is stated as 5m and is indicated by drawn contours. The approximate average depth is given as 2m.

The drawn area measures by scaling from drawing HHKE 02(1) to c.4888 sqm or 0.49ha though it is stated as 0.4ha. The plan is also annotated that the application is “for the avoidance of doubt” as the cumulative area of deposits may exceed 0.5ha.

The water course is described as a piped ‘occasional’ flow. At c.500m to the east, the Froghall Meadows SSSI lies in the path of this drainage.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (adopted 9th September 2020)

SS1 Development Principles
SS10 Other Rural Areas Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
DC3 Landscape and Settlement Setting
NE1 Biodiversity and Geological Resources
NE2 Trees, Woodland and Hedgerows
T1 Development and Sustainable Transport

National Planning Policy Framework February 2019

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 6 – Building a strong and competitive economy; Promoting healthy and safe communities; 11 – Making effective use of land; 12 – Achieving well designed places; 13 – Protecting Green Belt Land; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

DET/2020/0030 - infilling of steep sided linear depression on grassland with clean construction waste to provide a level safe surface for farm vehicles (the area is to be resurfaced with top soil initially removed and reseeded) – prior approval required – not subsequently pursued by the applicant

CONSULTATIONS

Publicity

No formal publicity or consultation at this stage due to being a prior notification. Responses received from Severn Trent (minimal impact) and Staffs Ramblers expressing concern that the Staffordshire Way, (Kingsley 1) should remain open during and after development; also it must be safe for public access.

OFFICER COMMENTS

Principle of Development

The application is made under the Permitted Development procedure for agricultural development contained at GPDO (2015) Schedule 2, Part 6 Class A. To qualify for the Permitted Development route the proposed works must be “reasonably necessary for the purposes of agriculture within that unit”. The agricultural use of the land must be “for the purposes of a trade or business” and the unit must be “occupied as a unit for the purposes of agriculture”, all as set out in the Interpretation Section (D.1) for Part 6 Classes A to C.

Subject to conditions as set out at section A.2, the provisions of Class A(a) of Schedule 2 Part 6 to the GPDO are in connection with agricultural buildings and the provisions at A(b) are for “any excavation or engineering operations” which are “reasonably necessary for the purposes of agriculture within the holding” to be undertaken as Permitted Development subject to a prior notification to the LPA, with subsequent assessment if the LPA so determines. The site must be within an agricultural unit of 5 hectares or more which the LPA can be satisfied is not in doubt here.

The circumstances in which ‘waste’ can be deposited are however specifically limited by condition A.2(1)(c) as follows:

- (c) waste materials are not brought on to the land from elsewhere for deposit **except for use in works described in Class A(a) or in the provision of a hard surface** and any materials so brought are incorporated forthwith into the building or works in question [emphasis added].

As this proposed scheme is neither in connection with development of a farm building nor in connection with the formation of a 'hard surface' it is apparent to the LPA that the proposal cannot qualify for a determination under Part 6.

In e-mail correspondence (18.08.2021) the agent has asserted that the work is in connection with the formation of a hard surface saying that the primary purpose is *"to provide a level hard surface over which to drive heavy farm machinery. A thin coat of top soil was simply cosmetic"*.

There is reference at A.2(2)(c) to:

(c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares);

and that this would be subject to the need for prior notice to the LPA for a determination as to whether the prior approval of the authority will be required as to the siting of "the deposit".

D.1(4) states as follows:

"For the purposes of paragraph A.2(2)(c) of this Part, the relevant area is the area of the proposed excavation or the area on which it is proposed to deposit waste together with the aggregate of the areas of all other excavations within the unit which have not been filled and of all other parts of the unit on or under which waste has been deposited and has not been removed."

Given the 0.49ha plan area of deposit proposed and the reference to a previous 0.2ha of deposit, the 'for the avoidance of doubt' application is perhaps understandable. In fact there would seem to be no doubt that the aggregated area for deposits (previous 0.2ha and now proposed 0.49ha) would exceed 0.5ha. Even if it were less than 0.5ha (which clearly it is not) it would not overcome the more fundamental restriction on waste at A.2(1)(c) that the proposal is also subject to the reason for which it is being brought on to the holding.

Whilst it appears clear to the LPA that this proposal is not eligible under part 6 it would nevertheless be prudent on the part of the LPA to inform the applicant that if it can be shown that the proposal is in fact permissible subject to prior notice then the LPA would indeed consider prior approval to be required in respect of siting.

The reasons for this are due to:

- a) the amounts proposed to be sited;
- b) the implications in terms of water flows, land stability and pollution;
- c) being sited within a SSSI impact zone within which consultation with Natural England is required for proposals involving waste, landfill including inert landfill, non-hazardous landfill and hazardous landfill;
- d) implications of the siting on the means of access for importing the waste;
- e) implications for trees and hedgerows

CONCLUSION / PLANNING BALANCE

As discussed in the report this proposal does not appear to qualify for prior notice under Part 6. However, in the event that the applicant can demonstrate otherwise the LPA should stipulate that prior approval is (would be) required.

OFFICER RECOMMENDATION : **Prior approval required** (subject to being found compliant with Part 6)

Case Officer: Arne Swithenbank

Recommendation Date: 23rd August 2021

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council