

**RETENTION OF
SECTION OF TRACK,
LAND WEST OF
YEARLING COPPICE FARM,
HALSTEAD, KENT**

SUPPORTING STATEMENT

January 2021





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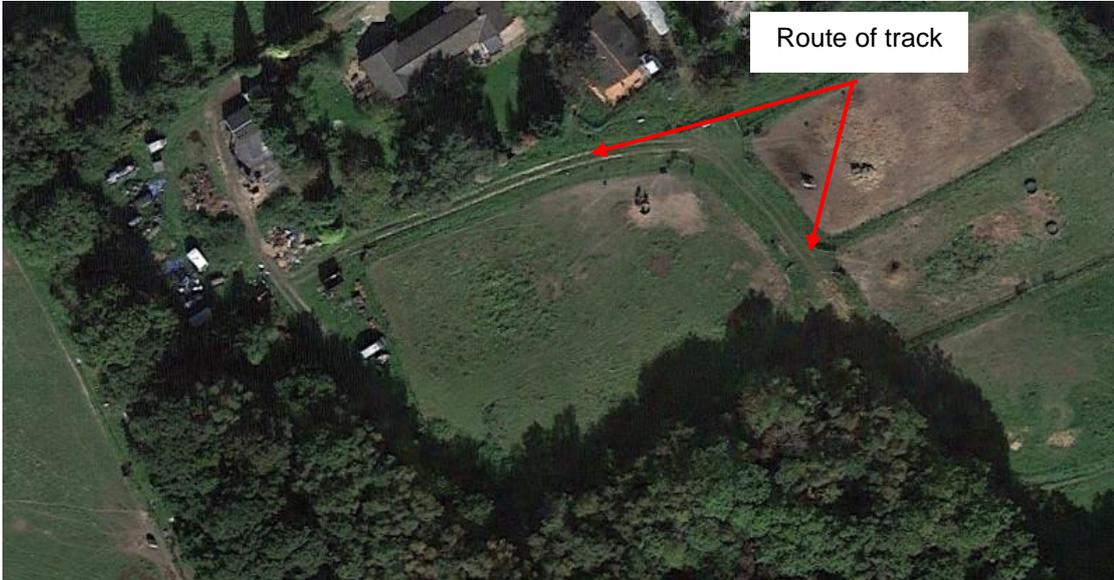
1 INTRODUCTION

- 1.1 This short Supporting Statement accompanies an application to retain a short section of track on land west of Yearling Coppice Farm, Halstead.
- 1.2 The section of track was created by adding chalk/stone to the surface of the land, and this was then pressed into the ground by vehicle movements.
- 1.3 The works require planning consent because they are an engineering operation.
- 1.4 An application to retain the track plus an area of hardstanding was refused by the Council in August 2020. The reason for refusal referred to the creation of **“an incongruous feature clearly visible from the adjacent public right of way which has an adverse impact upon the wider character of the area”** (20/01343/FUL).
- 1.5 Only the hardstanding is visible from the footpath. As analysed in this report, the track did not cause any landscape concerns.
- 1.6 Accordingly to regularise the matter, planning consent for the track is sought in isolation.
- 1.7 This short report:
- describes the works in section 2;
 - assesses the policy and issues previously considered in section 3;
 - sets out an assessment in section 4.

2 THE WORKS

- 2.1 The track follows the route that has been used by the Applicants for some years, as shown below.

Insert 1: The Track Previously Used



- 2.2 The track is shown below.

Photo 1: Looking North from the End



Photo 2: Looking East from the Western End



Photos 3 and 4: Looking South and West from the Central Corner



2.3 The application seeks planning consent to retain the chalk base. As can be seen this has become muddy and ideally, for which planning consent is sought, the Applicants would like to surface this with road planings.

2.4 There are tracks of that construction on the adjoining land holding, as shown below.

Insert 2: Nearby Tracks



- 2.5 When the track has been top-dressed with road planings it will have the following appearance.

Photo 5: Section of Dressed Track



- 2.6 The track provides vehicle and pedestrian access to the various paddocks that can be seen on the aerial views above.

2.7 A solid track will reduce significantly the amount of mud created and spread which will result from using the route without the stone. Using that route without hard surfacing also represents a health and safety risk.

2.8 As can be seen, the Applicants have planted a hedge alongside the track and have planted deciduous trees along one side. This is protected from grazing by deer or horses and is establishing well, as shown below.

Photos 6 and 7: Hedges and Trees Planted



3 POLICY AND PREVIOUS DECISIONS

Planning policy

- 3.1 The National Planning Policy Framework (NPPF) February 2019, identifies that within a Green Belt engineering operations “**are not inappropriate**” provided that “**they preserve its openness and do not conflict with the purposes of including land within it**”.
- 3.2 Local policies of particular importance, as cited in the reasons for refusal of the previous application, are those within the Allocations and Development Management Document (2015). Reference has been made to:
- policy EN1 “Design Principles”, which requires amongst its various criteria that development “**would respect the topography and character of the site and the surrounding area**”;
 - policy EN5 “Landscape” which sets out that development should conserve and enhance the character of the landscape and that they should conserve, and where feasible help secure enhancements. As the first part of the policy requires development to conserve and enhance, and the second part requires only to conserve “**and where feasible**” enhance, the policy appears to require both conservation and enhancement.

Analysis of Officers Report

- 3.3 The officer report for the previous application is set out in **Appendix KCC1**.
- 3.4 Working through the planning appraisal section, in respect of comments made about the track (where identifiable) as distinct from the hardstanding, or if a distinction cannot be made then comments on both components, included the following:
- (i) **impact on Green Belt:** the engineering operation represents appropriate development that does not affect openness and meets the requirements of national and local planning policies;
 - (ii) **AONB and Design Impact:** no comment was made about the track, only the hardstanding;
 - (iii) **amenity of neighbours:** there would be no adverse effect on amenity through the use of the track;
 - (iv) **parking and highways:** no additional need for parking and the point of access is not objectionable;
 - (v) **right of way:** no impact;
 - (vi) **biodiversity:** a biodiversity enhancement condition is suggested;
 - (vii) **flooding:** no impact.

- 3.5 Accordingly, and as set out in the reason for refusal, the impact on the landscape and failure to enhance the landscape is the only policy harm and objection.
- 3.6 It is clear from the officer report that the negative impact identified relates only to the hardstanding.

4 ASSESSMENT

- 4.1 Based on the previous application, officer report and reason for refusal, in terms of the track it can be concluded that:
- (i) it is appropriate development acceptable in principle in a Green Belt;
 - (ii) it does not harm neighbour amenity;
 - (iii) there are no highways impacts;
 - (iv) there are no impacts on public rights of way;
 - (v) there are no obvious or evident impacts on biodiversity, the previous comments relating to tree cover and the track not affecting tree cover;
 - (vi) there are no flooding issues.
- 4.2 The officer's report referred to the hardstanding creating an adverse impact on views as seen from the public right of way. There are no comments that the track impact identified relates only to the hardstanding affects the public right of way.
- 4.3 The track is not visible from the public right of way. The following series of photographs show that the track cannot be seen.

Insert 3: Location of Photos



Photo A: Looking South West



Photo B: Looking South



Photo C: Looking South East



Photo D: Looking West



4.4 It can be seen that in none of these views is the track, which is around the rear of the adjoining bungalow, visible.

- 4.5 The Applicants have planted hedges alongside the track, as can be seen in earlier photographs. This will, in time enhance the landscape and biodiversity of the area.
- 4.6 It is clear from the officer's analysis that the landscape harm identified in the previous application for hardstanding and the track was the area of hardstanding. No reference was made to the track.
- 4.7 The County Council Public Right of Way comments refer exclusively to works being highly visible from the public right of way, impacting on walker's enjoyment of wider views of the landscape. As can be seen, this comment cannot apply to the track.

Conclusions

- 4.8 Overall, therefore:
- the proposal represents appropriate development in the Green Belt;
 - the proposals do not adversely affect the landscape;
 - the proposals bring about an overall enhancement to the landscape;
 - to continue to use the route without a hard surface will create mud and a health risk;
 - there are no other issues.
- 4.9 Accordingly the proposals accord with the development plan.

Appendix KCC1
Officer's Report (20/01343/FUL)

Application report

Application Reference:	20/01343/FUL	Date of report:	21.08.20
Proposal:	Creation of Track and Hardstanding	Case officer:	Guy Martin
Address:	Land west of Yearling Coppice Farm Otford Lane Halstead Kent TN14 7EQ		

Description of site

The site is located within a rural location located to the north of Fort Halstead.

Description of proposal

Creation of Track and Hardstanding

Relevant planning history

00/01560/LDCEX	Lawful development certificate for the removal of an agricultural occupancy condition to a single family dwellinghouse. Amended site plan received 21.12.2000.	GRANT	15/02/2001
01/02310/FUL	Conversion of existing utility workshop building to single family dwelling house together with external alterations. Revised location plan and letter received 26.11.01.	GRANT	22/07/2002
96/00594/HIST	(LDCE) Retention of original dwelling as separate single dwelling house without complying with condition (vii) of permission SW/5/72/372.	GRANT	23/09/1996
97/01711/HIST	Erection of replacement dwelling and provision of cesspool.	GRANT	14/10/1997
98/00314/HIST	Demolition of existing stable block. Erection of a new building comprising 2 new stables and store room. Amended plans received with letter 12.01.99. Amended Plan received with letter 12.4.99	GRANT	09/06/1999
98/02631/HIST	Erection of single family dwellinghouse	GRANT	23/04/1999
19/03140/FUL	Creation of track and hardstanding.	REFUSED	03/02/2020

Reason for refusal:

“The works have resulted in an incongruous feature which is clearly visible from the adjacent public right of way which has an adverse impact upon the wider character of the area failing to meet the requirements of the NPPF and policies EN1 and EN5 of the ADMP.”

Constraints

Adjacent Public Right of Way
Adjacent Ancient Woodland
Area of Outstanding Natural Beauty
Biodiversity Opportunity Area
Metropolitan Green Belt

Policies

National Planning Policy Framework (NPPF)

Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.

Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- Footnote 6 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

Core Strategy (CS)

- LO1 Distribution of Development
- LO8 The Countryside and Rural Economy
- SP2 Sustainable Development
- SP11 Biodiversity

Allocations and Development Management (ADMP)

- EN1 Design Principles
- EN2 Amenity Protection
- EN5 Landscape

Other

- Sevenoaks Development in the Green Belt Supplementary Planning Document (SPD)

Publicity Expires on:
23.07.20

Consultations responses

Halstead Parish Council

“Halstead Parish Council object to this application. This development has an adverse impact upon this Area of Outstanding Natural Beauty and fails to enhance the landscape character of the area. It also fails to meet the requirements of the NPPF and EN1 and EN5 of the ADMP.

This owner has already decimated the area, felled ancient woodland, affected the biodiversity and ecology of this spot and commenced operations prior to getting planning approval”.

KCC Ecology

“No ecological information has been submitted with this application. As previously highlighted in the 2019 application at this site (19/03140/FUL), submitted photographs show that the hard-standing base has (at least partially) been installed.

Ancient Woodland

Paragraph 175 of the National Planning Policy Framework 2019 states “*development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...*”, with Natural England standing advice stating that developments should have at least a 15m buffer between it and the ancient woodland.

Whilst it is difficult to assess if the provision of hard-standing and associated activities will lead to a deterioration of the ancient woodland, the installation of the hard-standing (in its current position) contravenes standing advice from Natural England and the Forestry Commission by encroaching within 15m.

Loss of Biodiversity

Section 40 of the NERC Act 2006 cites the public authority duty to maintain and enhance biodiversity. As this development has entailed/will entail the replacement of (mostly) grassland habitat and general greenspace with hard-standing material, it is likely the area’s biodiversity value has been lowered as a result. If planning permission is granted, we advise that compensation for the loss of greenspace should be implemented.

Although a small section of new hedgerow has been proposed to the north, no details (i.e. the species) have been provided. We highlight that any landscaping associated with this development must include native species only (and ideally be of local provenance and in keeping with the area’s ecological composition) to maintain the ecological integrity of the nearby ancient woodland.

We also take the view that the current landscaping proposals do not adequately compensate for the loss of greenspace and that more native hedging, tree planting and/or wildflower meadow creation should be enacted. As such, we advise that a condition is attached to planning permission (if granted) to secure the implementation of enhancements. Suggested wording:

Within one month of planning permission being granted, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include the provision of native plant species. The approved details will be implemented and thereafter retained."

KCC Public Rights of Way

"Public Right of Way Footpath SR11 runs along the northern boundary of this site and provides the vehicle access to the property from Otford Lane. As expressed in the officer's report on the previous application SE/19/03140/FUL the works are highly visible from the right of way and could be considered to adversely impact on walkers 'enjoyment of wider views of the landscape, not enhancing the landscape character of the area.

I would therefore request a planning **condition** to mitigate this impact, if the application is granted, that any hedge planting is at least 1.5m set back from the edge of the footpath to ensure that the hedge does not encroach onto the public right of way, causing a nuisance to users, and that there is sufficient room to allow it to be trimmed back.

I enclose a copy of the Public Rights of Way network map showing the line of this path for your information.

The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way.

This means that the Public Rights of Way must not be stopped up, diverted, obstructed (this includes any building materials, vehicles or waste generated during the works) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent."

SDC Tree Officer

"I support the proposed hedgerow planting as it will offer an improvement to the boundary. I have no other comments to make to the main proposals."

Representations

16 objections in summary relating to:
- Adverse impact upon the AONB;

- Adverse impact that has occurred to the adjacent public right way;
- That harm has already occurred to the land and biodiversity.

Planning appraisal

The main planning considerations are:

- Impact upon the Green Belt
- Impact upon the AONB
- Impact upon the adjacent Ancient Woodland
- Neighbouring amenity
- Access, parking and highways
- Biodiversity

The application form states that the current use of the land is agricultural / grazing however no information has been provided to support this whilst the supportive statement identifies the land as equestrian.

Impact on the Green Belt

As set out in paragraph 146 of the NPPF, certain forms of development are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Amongst others these include engineering operation. Paragraph 143 states that where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.

Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Therefore, the harm in principle to the Green Belt remains even if there is no further harm to openness because of the development.

Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development.

The proposed works would be considered to represent an engineering operation and in consequence the proposal would represent appropriate development. The works result in a minimal change in the level of the land and accordingly it is not considered that the proposal would have an adverse impact upon the openness of the Green Belt. In consequence it is considered that the proposal would meet the requirements of national and local planning policies.

Area of Outstanding Natural Beauty (AONB) and design and impact on the character of the area

The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.

There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.

Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. Proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.

Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.

In reviewing aerial plan of the site the land upon which the works have taken previously comprised of grassed land and in parts bare earth. Since the previously submitted application a large extent of the surface that was previously in place has been removed.

The addition of a hedge along the boundary with the adjacent footpath could minimise views of the works however there is no mechanism to ensure the long term retention of the hedge and this is likely to require some time before it would become established.

As shown by the following photographs taken from the site visit the hard surfacing, which is clearly visible from the adjacent footpath to the north of the site creates an incongruous feature that fails to conserve and enhance the character of the Area of Outstanding Natural Beauty failing to meet the requirements of the NPPF and policy EN1 and EN5 of the ADMP.



Ancient Woodland

The NPPF, paragraph 175 states that when determining planning applications, local planning authorities should apply amongst others the following principles:

- development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

The NPPF provides a footnote in respect to examples of exceptional reasons that states as being infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills) where the public benefit would clearly outweigh the loss or deterioration of habitat.

Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.

The woodland to the south of the hardstanding and to the west of the southern stretch of the track is Ancient Woodland. Due to the works having already taken place any potential damage would already have occurred. SDC Trees were consulted on the proposal however they made comments in respect to the impact upon the Ancient Woodland.

Neighbouring Amenity

Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.

The works that have already been completed, comprising of the laying of a track and hardstanding with neighbouring properties located adjacent to the work. In looking at aerial photographs a track existed on the site of the proposed works upon which a number of vehicle were located.

In consequence it is not considered that the proposal would have an adverse impact upon neighbouring amenities through the use of the track or through generating additional vehicular activity ensuring that the residential amenities of adjacent properties are retained, meeting the requirements of national and local policies.

Parking and Highways Impact

Policy EN1 states that all new development should provide satisfactory means of access for vehicles and pedestrians and provide adequate parking.

The proposal does not result in any additional demand for parking on site and the point of access is not objectionable.

Impact upon the adjacent public right of way

A public right of way extends to the north of the site outside of the application site ensuring that no works impact upon this footpath.

KCC's Public Rights of Way Officer was consulted on the proposal and had no objection subject to the proposed hedge being set back 1.5m from the footpath to ensure that the hedge does not impinge upon walkers using the path. As above, the hedging is not considered adequate to mitigate the visual and AONB impact in this instance.

Biodiversity

Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.

As confirmed by KCC Ecology, through the works having already having been partially started that the proposal would have resulted in a reduction in the grasslands biodiversity value. Accordingly they have advised that a conditons should be incorporated to enhance biodiversity on the site.

Impact upon Flooding

The materials used for the hard surfacing are porous with a large area of pasture located adjacent enabling any runoff to be absorbed ensuring that there will not be any adverse impacts from flooding.

Other issues

In reviewing the materials used in the construction of the drive it is not considered that these would have an adverse impact upon the land upon which it is located.

Community Infrastructure Levy (CIL)

This proposal is not CIL liable.

Conclusion

The proposed works would represent appropriate development that would not have an adverse impact upon the openness of the Green Belt, would not impact detrimentally upon local amenities, the adjacent public right of way or adjacent protected trees. The proposal would have an adverse impact upon the Area of Outstanding Natural Beauty failing to either preserve or enhance the landscape character of the area failing to meet the requirements of the NPPF and policies EN1 and EN5 of the ADMP.

Recommendation

It is therefore recommended that this application is refused.

Case officer: Guy Martin

Date: 21.08.20

Manager/Principal: C Shearing

Date: 24.08.2020



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