

Report to: PLANNING COMMITTEE

Date of Meeting: 19 January 2021

Report from: Assistant Director of Housing and Built Environment

Application address: Land Adjoining Fishponds Cottages, Barley Lane, Hastings Country Park, Hastings

Proposal: Installation of domestic sewage treatment plant to replace septic tank (amended description)

Application No: HS/FA/19/00871

Recommendation: Grant Full Planning Permission

Ward: ORE 2018
Conservation Area: No
Listed Building: No

Applicant: Mr Davidson per Action Enviro Ltd Ivy Farm
Deanland Road Golden Cross, Chiddingly. BN27 3RP

Public Consultation

| | |
|----------------------------------|-----|
| Site notice: | Yes |
| Press advertisement: | No |
| Neighbour Letters: | No |
| People objecting: | 3 |
| Petitions of objection received: | 0 |
| People in support: | 0 |
| Petitions of support received: | 0 |
| Neutral comments received: | 0 |

Application status: Not delegated -
Application by serving employee in restricted post

1. Site and surrounding area

This application refers to a plot of land forming part of No 2 Fishponds Cottages, and part of land located to the rear of No 1, No 2 and No 3 Fishponds Cottages, which are located on the south east side of Barley Lane, in Hastings Country Park.

The application site is in the High Weald Area of Outstanding Natural Beauty, a Local Nature Reserve and a Local Wildlife Site, with only a very small portion of the application site, located to south east, being within an Ancient Woodland and Site of Special Scientific Interest.

This application was originally due to be heard at committee in June but was removed to request an amended application form, certificate of ownership and notices to be served on all interested parties. This information was submitted on 10th December and is now considered to be correct. There was no requirement to re-advertise as the proposal remains the same and there were no changes that needed to be considered.

Constraints

Ancient Woodland

High Weald Area of Outstanding Natural Beauty (AONB)

Land Owned Leased Licensed or held by Tenancy at Will by HBC

Local Nature Reserve (LNR)

Hastings Country Park Local Wildlife Sites (LWS)

Risk of surface water flooding

Risk of ground water flooding

Site of Special Scientific Interest (SSSI)

Adjacent to Hastings Cliffs to Pett Beach Site of Special Scientific Interest (SSSI),

Within c. 517m of Hastings Cliffs Special Area of Conservation (SAC)

2. Proposed development

This application is seeking planning permission for the installation of a domestic sewage treatment plant, serving No 1, 2 and 3 Fishponds Cottages, which is to replace an existing septic tank that is considered to be failing.

The proposed sewage treatment plant is to be a standard (not shallow) Marsh 16 model, measuring:

- 2.860 metres in length
- 1.912 metres in width
- 2.284 metres in height

This is to be buried below ground, will stand on a concrete slab, and will be encased in concrete with a minimum thickness of 0.15 metres, with a small compressor above ground.

The tank is to be sited in the west corner of the field at the rear of the properties, as there is insufficient space within the garden of No 2 Fishponds Cottages. The proposal will make use of an existing perforated discharge pipe which runs from the original tank, across a field owned by Hastings Borough Council, but does not reach Fishponds Gill, therefore additional works are required to extend the discharge pipe, by some 18.00 metres, to reach Fishponds Gill. The tank will require emptying twice a year, similar to existing arrangements with the septic tank.

Supporting documents

The application is supported by the following documents:

- Statement of proposed works
- Equipment brochure

Relevant planning history

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|-------------|---|
| HS/56/00058 | Alterations, additions and construction of septic tank. Granted 13/03/1956 |
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National and local policies

Hastings Local Plan – Planning Strategy 2014

Policy FA5 - Strategic Policy for Eastern Area
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy EN3 - Nature Conservation and Improvement of Biodiversity
Policy EN4 - Ancient Woodland
Policy EN5 - Local Nature Reserves (LNR)
Policy EN6 - Local Wildlife Sites (LWS)
Policy EN7 - Conservation and Enhancement of Landscape

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications
Policy DM1 - Design Principles
Policy DM3 - General Amenity
Policy DM6 - Pollution and Hazards
Policy HN8 - Biodiversity and Green Space
Policy HN9 - Areas of Landscape Value

Other policies/guidance

High Weald AONB Management Plan
High Weald AONB Legislation and Planning advice note
Wildlife and Countryside Act 1981
Protection of Badgers Act 1992
Conservation of Habitats and Species Regulations 2017
Natural Environment and Rural Communities Act 2006
National Parks and Access to the Countryside Act 1949
Countryside and Rights of Way Act 2000

National Planning Policy Framework (NPPF)

Paragraph 11 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Paragraph 12 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Section 12 sets out the requirement for good design in development, and Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 127 requires that decisions should ensure developments:

- Function well
- Add to the overall quality of the area for the lifetime of that development
- Are visually attractive in terms of:
 - Layout
 - Architecture
 - Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation
- Maintain a strong sense of place having regard to:
 - Building types
 - Materials
 - Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development
- Create safe places with a high standard of amenity for future and existing users

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 170 requires planning decisions to contribute to, and enhance, the natural and local environment. This should be achieved by protecting and enhancing sites of biodiversity or geological value, and, minimising impacts on and providing net gains for biodiversity.

Paragraph 172 states: Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Footnote 55 states: For the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

Paragraph 175 requires local planning authorities to apply the following principles when determining an application:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) 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; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Paragraph 177 states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

3. Consultation comments

With regards to this application the following consultations were undertaken:

East Sussex County Council Ecologist – No objection subject to the imposition of conditions

The officer notes the following:

ESCC Ecologist notes that whilst a small section of the trench for the proposed treatment plant would extend into an area of ancient woodland, both Natural England and the Environment Agency do not consider that the proposal will have an adverse impact on the SSSI or SAC.

The footprint of the works is small, subject to the ground cover being reinstated post works it is considered there would be no harm to protected species, the ancient woodland and to the LWS subject to Condition 4.

ESCC Ecologist therefore has no objection to the proposed works.

East Sussex County Council Flood Risk Management – No comment to make

The officer has noted that the current application falls outside the remit of the Flood Risk Management team, and it is their understanding that the Environment Agency has agreed to the discharge of treated effluent into the Gill at the rear of the houses, under other regulations and outside of the planning process. However, the applicant will be required to contact the Lead Local Flood Authority to establish whether ordinary watercourse consent is required. This will be added as an Informative.

Hastings Borough Council Environment Health Pollution – No objection

No objection subject to the Estates Department being satisfied that all necessary permissions and permits have been granted.

Hastings Borough Council Estates Team – No comment to make

Hastings Borough Council Arboriculturalist Officer – Further information required

The officer requires further information in order to be able to confirm whether trees in the ancient woodland would be affected by the outfall pipe and associated installation works. The officer confirms this information can be requested through a pre-development commencement condition requiring a method statement that fully explains the extent of the works required to install the discharge/outfall pipe, to be submitted to and approved by the Local Planning Authority prior to the commencement of any development.

Natural England & Environment Agency – No objection subject to Condition 4 and Informative no. 8.

Prior to submission of this application for planning permission, an environmental permit application was submitted to the Environment Agency by the applicants. As part of this environmental permit application, the Environment Agency consulted with Natural England.

The Environment Agency, as part of CRoW Appendix 4, application for permission formal notice, note that the proposal is for a maximum daily discharge of 2 metres cubed of domestic secondary treated sewage effluent from three properties, into Fishponds Gill, via a partial infiltration system from a sewage treatment plant. That the sewage treatment plant is to replace an existing septic tank and infiltration system. The existing septic tank is failing due to poor permeability of the ground, it being subject to occasional water logging. It is not considered reasonable for the properties to connect to the public foul sewer due to being approximately 800 metres away, and would require crossing neighbouring land. Whilst the treatment plant is 86 metres outside of the SSSI, the discharge point into Fishponds Gill is wholly within the SSSI.

Both Natural England and the Environment Agency raise no objection to this application subject to the imposition of Condition 4 and Informative no. 8.

4. Representations

In respect of this application a site notice was displayed outside the property. Three objections from three different addresses were received with the following concerns:

- Potential noise from the plant system
- Proposal to take place on HBC Land
- Consultee responses not being on public access
- Lack of information on potential harm to ancient woodland, protected species (an ecology study) and the SSSI. The use of a pre-commencement condition will not allow for accurate consultation and scrutiny by the planning committee.

5. Determining issues

The main issues to consider are the impact on the character and appearance of the area, the impact on neighbouring residential amenities, the impact on ecology and trees, and the impact on the High Weald AONB.

a) Principle

The site is in a sustainable location and the application is therefore in accordance with Policy LP1 Hastings Local Plan - Development Management (2015) in this respect and acceptable in principle subject to other local plan policies.

b) Impact on character and appearance of the area

Policy DM1 of the Development Management Plan (2015) seeks to ensure a good standard of design which protects and enhances the local character.

The main sewage treatment tank is to be buried below ground in a field located at the rear of No 1, No 2 and No 3 Fishponds Cottages, with the ground above being reinstated, and only a small compressor above ground. Therefore, given the nature of this development, the siting and scale of the proposed works, it is not considered to have any negative impact on the character and appearance of the area.

The proposed works are therefore considered acceptable in this respect and are in agreement with Policy DM1 of the Hastings Local Plan - Development Management Plan (2015).

c) Impact on neighbouring residential amenities

Policy DM3 of the Development Management Plan (2015) requires proposals to achieve a good living standard for future users of proposed development and its neighbours in terms of amenity.

The main sewage treatment tank is to be buried below ground in a field located at the rear of No 1, No 2 and No 3 Fishponds Cottages, with the ground above being reinstated, and only a small compressor above ground. Therefore, given the nature of this development, the siting and scale of the proposed works, it is not considered to have any negative impact on the neighbouring residential amenities.

The proposed works are therefore considered acceptable in this respect and are in agreement with Policy DM3 of the Hastings Local Plan - Development Management Plan (2015).

d) Trees – Ancient Woodland

Policy EN3 and EN4 of the Planning Strategy (2014), are relevant and seek to protect biodiversity and ancient woodland. This is supported by paragraph 175 of the NPPF is relevant in that it states that any 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.

Planning guidance from the Forestry Commission and Natural England requires, that in making planning decisions, consideration should be given to, conserving and enhancing biodiversity, and reducing the level of impact of the proposed development on ancient woodland, and ancient and veteran trees.

The proposed development is to replace an existing sewage treatment plant, which is no longer fit for purpose and does not comply with current standards. The septic tank is resulting in the discharge of pollution in to the field, which is a Local Wildlife Site and Local Nature Reserve. The siting of the proposed sewage treatment plant itself is not within the Ancient Woodland or SSSI, however, the proposed discharge pipe is proposed to be extended so that it terminates in the Ancient Woodland (a SSSI). Specifically, the pipe will extend 3m into the ancient woodland.

Therefore, the impact on the trees and their root systems, within the Ancient Woodland, needs to be considered.

The proposed sewage plant will retain solid waste which will sink to the bottom of the treatment plant, emptied twice a year. The solid waste will not reach the SSSI, Ancient Woodland, Local Wildlife Site and Local Nature Reserve or other protected features. In terms of waste water, before it leaves the plant it will be treated so that it is without pollutants. The water then leaves the tank via a perforated pipe. As the pipe is perforated, most of this water will drain out of the pipe and into the ground before it reaches the SSSI and ancient woodland. The pipe is proposed to be extended so that it would terminate within the ancient woodland and SSSI. In the event that any water does reach the end of the pipe as extended, it will not be harmful.

There has been no evidence submitted to precisely show how and where the new pipe will be constructed, relative to the trees within the ancient woodland. Based on the current information, it is not possible to confirm that no trees or their roots would be impacted by the proposed development. Therefore, as requested by the Arboricultural Officer, in order to ensure that the application is in accordance with relevant local and national policy, a method statement is required by Condition no. 4. This method statement will show how the works are carried out and how the trees within the ancient forest are protected. Condition 4 is a pre-commencement condition, which means development cannot proceed until the necessary information is submitted to the Local Planning Authority and approved. Therefore subject to this pre-commencement condition, providing information is received to satisfy the conditions, it is considered that the proposed development would not result in the loss or deterioration of the Ancient Woodland and the development would be in accordance with both national and local plan policy in this respect.

e) Ecology

Local Nature Reserve and Local Wildlife Site

The site is located within a Local Nature Reserve (LNR), a Local Wildlife Site (LWS) and a SSSI and as such Policies EN3, EN5, EN6 of the Hastings Planning Strategy (2014) and paragraphs 170 and 175 of the NPPF are relevant.

These policies seek to protect the various designations in terms of biodiversity or geological value. They seek to minimise impact associated with development, provide mitigation where appropriate and encourage gains for biodiversity.

The existing septic tank is failing and potentially polluting the land. It is not considered reasonable for the applicant to connect to the existing public foul sewer, due to the connection point being approximately 800 metres from the application site, and would require crossing neighbouring land. Its replacement is therefore required and seen as an improvement to the existing situation. The way in which the treatment plant works is discussed above. Its impact in terms of biodiversity, the SSSI, LWS, LNR is minor and not considered harmful. The ESCC Ecologist, Natural England and the Environment Agency have no objections subject to the imposition of Condition no. 4 and Informative no. 8 which require the submission of additional information such as a method statement for the protection of ancient woodland, Great Crested Newts, and badgers, and the reinstatement of the Local Wildlife Site. Providing information is received to satisfy the conditions, it is considered that the proposed development would not result in a harmful impact to the ecology and biodiversity of the LNR or LWS and would be in keeping with Policies EN3, EN5 and EN6 of the Hastings Local Plan - Planning Strategy (2014) and the relevant national policies.

SSSI (Hastings Cliffs to Pett Beach SSSI)

Policy EN3 of the Planning Strategy (2014) and paragraph 175 of the NPPF are relevant and seek to protect SSSIs and prevent development which is likely to have an adverse effect on it. For the reasons noted above, the proposed development is not considered to harm the SSSI, subject to Condition 4 and Informative note no. 8.

The proposed works are therefore considered acceptable, subject to conditions, and are in agreement with Policy EN3 of the Hastings Local Plan - Planning Strategy (2014) and relevant national policy.

f) High Weald AONB

Policy HN9 of the Development Management Plan (2015), Policy EN7 of the Planning Strategy (2014) and the High Weald Area of Outstanding Natural Beauty Management Plan are relevant and seek to prevent inappropriate development within the AONB and protect distinctive landscape.

The proposed works will see the sewage treatment plant and associated discharge pipes being located below ground, with only a small compressor above ground, all of which are located within the High Weald AONB. As such, the proposed works are not considered to have any negative impact on the character, scenic quality or visual benefit, of the High Weald AONB and thus satisfy Policy HN9 of the Development Management Plan (2015).

The proposed works are therefore considered acceptable, subject to conditions, and are in agreement with Policy HN9 of the Hastings Local Plan - Development Management Plan (2015), Policy EN7 of the Hastings Local Plan – Planning Strategy (2014), and the High Weald AONB Management Plan and relevant national planning policy.

g) Constraints – Risk of groundwater and surface water flooding

Whilst the application site as a whole is identified as being at risk of groundwater and surface water flooding, the specific area proposed for the siting of the sewage treatment plant is not within these areas. As such the impact in terms of ground or surface water flooding is considered to be negligible. No further action is therefore required in this respect.

6. Conclusion

The proposed works are considered appropriate for this location, and with the imposition of the proposed Conditions and Informatives would not cause harm to the character or appearance of the area, would not harm residential amenities, and would not have a negative impact on biodiversity, protected species, trees within the ancient woodland, the SSSI, LNR, LWS, or the High Weald AONB.

These proposals comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

7. Recommendation

Grant Full Planning Permission 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.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

ESAD1810SP & ESAD1810

3. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

08.00 - 18.00 Monday to Friday

08.00 - 13.00 on Saturdays

No working on Sundays or Public Holidays.

4. No development shall take place (including any demolition, ground works or site clearance) until a Method Statement for the protection of Ancient Woodland, Great Crested Newts, and badgers, and the reinstatement of the Local Wildlife Site, has been submitted to and approved in writing by the Local Planning Authority. The content of the Method Statement shall include the following:

- a) Purpose and objectives for the proposed works
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used)
- c) Extent and location of proposed works shown on appropriate scale maps and plans
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction
- e) Persons responsible for implementing the works
- f) Initial aftercare and long-term maintenance (where relevant)
- g) Disposal of any wastes arising from the works
- h) Full details on the extent of the work required to extend the discharge pipe to Fishponds Gill

The works shall be carried out in accordance with the approved details, before the use of the sewage treatment plant hereby approved commences. The approved works shall be retained and maintained in accordance with the approved Method Statement thereafter.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the amenity of adjoining residents.
4. To protect habitats from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992 and the Conservation of Habitats and Species Regulations 2017.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
3. The applicant is advised that they must ensure the proposed works, hereby approved, do not contravene laws protecting wildlife including the Countryside and Wildlife Act 1981. Where the applicant is in doubt they should contact Natural England on wildlife@naturalengland.org.uk Telephone 020 802 61089 or Environment and Natural Resources on parks@hastings.gov.uk Telephone 01424 451107 prior to commencement of any works.
4. There may be badgers on or near the application site, and your attention is drawn to the provisions of the Badger Protection Act 1992. It is a criminal offence to kill or injure a badger; to damage or obstruct access to its sett; or to disturb a badger when it is occupying a sett.
5. To comply with Condition No. 4 above the applicant must consult the Borough Arboriculturist (telephone: 01424 451147).
6. The applicant is required to consult with the land drainage team to discuss whether the works to establish an outfall from the package treatment works into the watercourse will require ordinary watercourse consent. The applicant should contact the Local Lead Flood Authority at watercourse.consenting@eastsussex.gov.uk
7. The applicant is advised that should protected species be encountered during development, work should stop with immediate effect, and advice should be sought from a suitably qualified and experienced ecologist on how to proceed.
8. The applicant is advised that they must seek SSSI consent from Natural England prior to any development taking place (including any demolition, ground works or site clearance).

Officer to Contact

Mrs M Botting, Telephone 01424 783252

Background Papers

Application No: HS/FA/19/00871 including all letters and documents