

**7 DCSE2005/1294/N - IMPORTATION OF TOP SOIL TO BE STOCKPILED IN FIELD OS 0663 UNTIL REQUIRED FOR USE IN REMEDIATION WORKS FOLLOWING EXCAVATION AND REMOVAL OF FARM WASTE MATERIALS AT HILL FARM, LLANCLOUDY, HEREFORDSHIRE, HR2 8QP**

**For: Mrs. G. Feakins per Burges Salmon LLP, Narrow Quay House, Narrow Quay, Bristol, BS1 4AH**

**Date Received: 25th April, 2005    Ward: Llangarron    Grid Ref: 49345, 20764**

**Expiry Date: 20th June, 2005**

Local Member:    Councillor Mrs. J. Hyde

## **1. Site Description and Proposal**

- 1.1 Hill Farm lies in open farmland approximately 18 km south of Hereford, just off the A466 road from Hereford to Monmouth. There is a tarmac main access drive directly off the A466, but there is also a rough track running northeast from the farmyard to Llancloudy village approximately 1 km away, which joins an unclassified lane before reaching the A466.
- 1.2 The applicant wishes to import approximately 250 tonnes of topsoil to the farm, to be temporarily stockpiled pending its use to infill excavations following the removal of farm waste by Defra contractors. The proposal is stated to involve approximately 12 vehicle journeys using 8-wheeled bulk tipper lorries.

## **2. Policies**

### **2.1 Planning Policy Guidance**

PPS1	-	Delivering Sustainable Development
PPG10	-	Planning and Waste Management
PPS23	-	Planning and Pollution Control

### **2.2 Hereford and Worcester County Structure Plan**

Policy A1	-	Development on Agricultural Land
Policy WD1	-	The Disposal of Waste
Policy WD2	-	The Disposal of Waste
Policy WD3	-	The Disposal of Waste

### **2.3 South Herefordshire District Local Plan**

Policy GD1	-	General Development Criteria
Policy C11	-	Protection of the Best Agricultural Land
Policy C47	-	Pollution
Policy C48	-	Health and Safety
Policy T3	-	Highway Safety Requirements

## 2.4 Herefordshire Unitary Development Plan (Revised Deposit Draft)

Policy S2	-	Development Requirements
Policy DR3	-	Movement
Policy DR4	-	Environment
Policy DR11	-	Soil Quality
Policy W2	-	Landfill or Landraising
Policy W3	-	Waste transportation and handling
Policy W8	-	Waste Disposal for Land Improvement

## 3. Planning History

- 3.1 This site was subject of an earlier agricultural Prior Approval application (reference SE2004/3458/S) for the removal of farm waste (manure, straw litter and cleansing equipment), but not, it is stated, any animal remains or carcasses, that had been deposited by Defra following the FMD outbreak and a subsequent High Court order (case number HC02C01140 Defra vs Feakins). In that instance Prior Approval was required, and granted on 25th November, 2004 (ref SE2004/4030/F), being determined as Agricultural Permitted Development under part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), Defra having given written confirmation that the removal of the waste would be "necessary for the purposes of agriculture".
- 3.2 It was originally proposed that the waste removal operation could use the existing main access off the A466, creating a short haul road within the farm holding to bypass the farmyard. The surplus excavated material from making the haul road would then have been used to infill excavations created by the waste removal, however the applicant now wishes to use an alternative access track and infill the excavations with imported soil, for which planning permission is necessary and is therefore the subject of this application.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 The Environment Agency initially submitted a Holding Objection asking for further information, namely a method statement for the remediation works and removal of waste materials with regard to any risk to ground and surface water, and also details of how soil stockpiles would be constructed.

### Internal Council Advice

- 4.2 Traffic Manager - is concerned about road safety at the junction of the unclassified road with the A466 because visibility is poor and the turn has an oblique angle. Has requested further information about the physical dimensions of lorries to be used, and the likelihood of further vehicle movements being necessary to prepare the track to receive HGVs. If permission were to be granted, a form of traffic control would be necessary in the interests of road safety.
- 4.3 Environmental Health Officer - has commented on the proximity of the track to residential properties, and suggests that the main farm drive would be preferable in this respect. Has requested appropriate testing to ensure that the imported soil is uncontaminated, and would be suitable for the infilling.

## 5. Representations

5.1 Llangarron Parish Council comment as follows: "Object to this application for the reasons stated below:

- 1) road safety - very inadequate access to A466;
- 2) subsequent damage to the unclassified road verges, hedgerows etc;
- 3) inconvenience to local residents."

5.2 Nine letters of objection have been received from the following local residents:

Dr. S. Goulden, Shop House, Llancloudy  
Llancloudy Residents Association  
Mr. & Mrs. T Hayward, Hollybush House, Llancloudy  
D. George, Pembridge Barn, Llancloudy  
J. Rumford, Oakdale, Llancloudy (2 letters)  
Mrs. J. Holder, Brew House, Llancloudy  
T. & C. Hunt, Chapelfield, Llancloudy  
Mrs. J. Martin, The Rowlands, Llancloudy

These are summarised as follows:

- The A466 is dangerous, with restricted width and frequent speeding;
- All removed materials should be containerised, the likelihood of bacterial or fungal spores involved in the breakdown of these residues could constitute a health hazard.
- The probable damage to the road and the safety aspects make the proposal unacceptable;
- The properties affected are older houses without foundations;
- The volume of heavy lorry traffic required is far in excess of that indicated and the time required to complete it would be drastically extended.
- We object not to the principle of importing the topsoil but the route which has been suggested. The track is unsuitable.
- 8-wheeled vehicles are too large for the turns;
- The preparation of the track would necessitate more heavy vehicles increasing the timescale and disturbance;
- We have four elderly and infirm family members.
- We believe this is all part of a Defra scheme to exhume the remains of cattle buried there as part of the Foot and Mouth solution;
- Why try and extract it through the very centre of the village, leaving us open to pollution and disturbance;
- I am concerned as to the effect that the heavy lorries would have on the structure of my property.
- The waste to be removed contains brain and blood, chemical pesticides, disinfectants, asbestos and other materials;
- I understand it is intended to stockpile this waste next to Pembridge Barn prior to transferring it to larger lorries.
- The lorries will be too large to negotiate the junction onto the A466;
- The lorries will damage property, the new drains, the road and the hedges;
- I will be a prisoner in my own home.

- If permission is granted it would allow the already permitted removal of contaminated waste from Hill Farm to use this route as well; Once extended the track would be open to traffic without due regulation;
  - We are uncertain as to the extent of contamination but it could well include BSE, FMD, asbestos etc. we are concerned about potential health risks;
  - The A466 junction is dangerous, the bus stop is used by school children;
  - The lane was never designed for heavy vehicles, we have a shared maintenance agreement for the land and are seeking legal advice as to who would be liable for any damage.
  - There is a strong possibility of damage to property.
- 5.3 The majority of objectors also question the use of the northern track for this operation, and suggest that the main existing access to Hill Farm would be the preferred route as it does not directly pass any residential properties.

The full text of these letters can be inspected at Planning Services: Minerals & Waste, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officers Appraisal

### General development principles

- 6.1 There are two distinctly separate issues here, only one of which is the subject of this application, namely (a) the removal of the agricultural waste material deposited at Hill Farm by Defra following the FMD outbreak and described in paragraph 3.1 above, and (b) the importation of soil to infill the resultant excavations. It must be stressed that the removal of the agricultural waste is not the subject of this application. That operation has been identified by Defra and accepted by the Council as Agricultural Permitted Development, and is not subject to planning control. Defra have stated that they have undertaken similar remediations at other premises and have established standard procedures for such circumstances.
- 6.2 With regard to residents' fears about the removal of the waste, the Council has some jurisdiction over this through its Environmental Health Officers, who will be monitoring the work. Defra's State Veterinary Service have stated in a letter dated 25<sup>th</sup> May 2005 "I would like to reassure residents that Defra's contractors will take all necessary steps to minimise the risks to public health and the environment and are used to safely dealing with far more hazardous materials than those present at Hill Farm. Once access details have been finalised the Defra contractors will draw up detailed working protocols, copies of which will be made available to local residents".
- 6.3 This application is for the subsequent remediation of the excavations created, by infilling them with imported soil – an operation that is not Permitted Development and does need planning permission. Officers' advice is that in principle this would be in accordance with Structure Plan and UDP waste and soil quality policies. The farm comprises grade 2 and 3 agricultural land and provided the imported soil is adequately tested for quality prior to its deposition, and the final levels are satisfactory, Officers consider it should enable the land to be restored and made available for beneficial use. Conditions could be imposed to ensure appropriate testing takes place.
- 6.4 The Environment Agency's consultation response requests further information, some of which relates to the removal of the waste, which is outside of planning control and would be unreasonable. The request for information about the construction method for

stockpiling the imported soil prior to using it for infilling is however reasonable and relevant to planning, and a condition is proposed to ensure that no pollution of ground or surface water would be adversely affected.

### **Transport and movements**

- 6.5 There are two possible access routes at Hill Farm, but the Council has no control over which one is used for the removal of the waste materials. The suggested route for this new planning application is an existing track, although it is currently very rough and could need upgrading to accommodate vehicles. Owners have permitted development rights to repair and improve existing private ways under Parts 6 and 9 of Schedule 2 of the GPDO, and the owner is at liberty to upgrade and use the track at any time (including to remove the waste material) without recourse to the local planning authority.
- 6.6 The applicant has stated that approximately 250 tonnes of imported topsoil would be required, to be delivered to the farm over approximately 2 days, comprising about 12 vehicle journeys using 8-wheeled bulk carriers and stockpiled for up to one month. Officers acknowledge that the disturbance to residents could extend beyond this because of a) the operation to remove the waste and b) the possibility of works necessary to upgrade the track, and that residents' concerns are understandable.
- 6.7 Both the Council and Defra are of the opinion that the existing main farm access drive would be the preferred route for HGVs, as this would avoid passing in close proximity to other properties. However, since the local planning authority cannot prevent the owner from upgrading or using the other track, including for the permitted removal of the farm waste, it would not be sensible or reasonable to specify that the topsoil be brought in via the farm drive.
- 6.8 Traffic Managers have confirmed, following a site meeting held on 16<sup>th</sup> June 2005, that the access to the farm track through Llancloudy village would in fact be adequate to receive the standard 8-wheel tipper trucks that have been proposed for this operation.
- 6.9 The proposed access route is subject to poor visibility on the A466. To ensure compliance with local plan policy T3 temporary traffic lights might be used, but Transportation Officers advise that due to the length of run that would be needed to achieve the required visibility this may not be practical. Alternatively warning signs would be needed during this temporary operation.

### **Conclusion**

- 6.9 The owner has permitted development rights to have the farm waste removed, and to maintain or improve and use his private track as he thinks fit. The importation of topsoil does require planning permission, and through conditions the Council could control what is imported, final ground levels and hours of working, and require appropriate road safety warnings to be installed during the operation, but very little else in this instance.
- 6.10 The relatively small amount of topsoil to be imported and the short duration of the works are key factors.

**RECOMMENDATION**

That planning permission be granted subject to the following conditions:

1. **A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **No development shall take place until a scheme for a traffic control or warning system on the A466 at the point of access to the proposal site has been submitted to the local planning authority for its written approval. The approved scheme shall be implemented in full for the duration of the development hereby permitted.**

**Reason: In the interests of road safety.**

3. **Not later than 12 months following the date of this permission, a scheme for the assessment of the quality of materials to be imported on the this site shall be submitted to the local planning authority for its approval in writing. No material shall be imported into this site in connection with the development hereby permitted other than in accordance with the agreed scheme.**

**Reason: To protect the water environment, prevent pollution, and in the interests of public safety and amenity.**

4. **No materials that are not fit for use as agricultural soil, subsoil or for land drainage shall be imported onto the site in connection with the development hereby permitted.**

**Reason: To protect the water environment, prevent pollution, and in the interests of public safety and amenity.**

5. **Prior to the commencement of the development hereby permitted, the applicant, the contractors or their agents shall submit for the local planning authority's approval written details of the method of stockpile construction, and the development shall be carried out strictly in accordance with those details.**

**Reason: To protect the water environment, prevent pollution, and in the interests of public safety and amenity.**

6. **Prior to the commencement of the development hereby permitted, the applicant, the contractors or their agents shall submit for the local planning authority's approval plans and sections of the final levels of the landform to be created. The approved scheme shall be implemented in full.**

**Reason: To ensure a satisfactory form of development and in the interests of the amenity of the locality.**

7. **The height of the proposed stockpile/s of imported soil shall not exceed 3 metres.**

**Reason: To protect the quality of the soil and to ensure a proper reclamation.**

- 8. During the course of the importation or removal of any materials in association with the development hereby permitted, no machinery shall be operated, no process shall be carried out, and no deliveries taken at or despatched from the site outside the following times: Monday to Friday 8.00 am to 6 pm, Saturday 8.00 am to 1.00 pm, nor at any time on Sundays, Bank or Public Holidays

Reason: To protect the amenity of local residents.

- 9. There shall be no burning on site of any materials associated with the development hereby permitted.

Reason: To prevent pollution and protect the amenity of local residents.

- 10. The public highway shall be kept free of all mud or other material emanating from the site or any associated works at all times.

Reason: In the interests of highway safety and public amenity.

**Informative:**

- 1. N15 - Reason(s) for the Grant of Planning Permission.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.