

MC/17/3436

Date Received: 5 October, 2017

Location: Malmaynes Hall Farm, Malmaynes Hall Road, Stoke, Rochester

Proposal: Change of use of land from farm yard and agricultural land to provide a facility to produce hydraulically bound material (HBM) from recycled aggregates for use in road building and in the construction industry.

Applicant: J Castle (Stoke) LTD

Agent: Mr Simpkin Graham Simpkin Planning 2 The Parade Ash Road  
Hartley Longfield DA3 8BG

Ward Peninsula

Case Officer Doug Coleman

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 14 February 2018.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Drawing numbers 2693/03A, 2693/05 and 2693/06 received on 5 October 2017

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development or site clearance shall take place until a scheme detailing measures for the translocation of reptiles from the site to an appropriate suitable habitat, has been submitted to and approved by the Local Planning Authority. The translocation measures shall be carried out in accordance with the approved details before any works commence on site, including any site clearance.

Reason: Required before commencement of any development to avoid any irreversible detrimental harm to protected species and in accordance with Policy BNE39 of the Medway Local Plan 2003.

- 4 No development or site clearance works shall take place until a verification report has been submitted to the Local Planning Authority detailing the successful translocation of reptiles.

Reason: Required before commencement of any development to avoid any irreversible detrimental harm to protected species and in accordance with Policy BNE39 of the Medway Local Plan 2003.

- 5 No development shall take place until a scheme to minimise the transmission of noise from the use of the premises, has been submitted to and approved in writing by the Local Planning Authority. Noise from the premises should be controlled, such that the noise rating level (L<sub>Ar,Tr</sub>) emitted from the development shall be at least 10dB below the background noise level (L<sub>A90,T</sub>) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. All works which, form part of the approved scheme shall be completed before any part of the development is implemented and shall thereafter be maintained in accordance with the approved details.

Reason: Required before commencement of development to safeguard the amenities of the occupiers of nearby development during the construction and operation of the development hereby permitted and in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 The use hereby permitted shall not take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, showing the construction of the earth bund, existing trees to be retained and proposed new planting. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the site. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 7 Prior to the installation of any external lighting on the site, details of such lighting including its height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), the rural landscape,

views of the site from Malmaynes Hall Road, nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust)) and of how this effect has been minimised shall be submitted to and approved in writing by the Local Planning Authority. Only the external lighting approved pursuant to this condition shall be used on the site and it shall only be used within the hours approved pursuant to this condition.

Reason: To limit the impact of the lighting on the landscaping of the site, the surrounding landscape, nearby residents and wildlife and with regard to Policies BNE1, BNE2, BNE5, BNE34 and BNE39 of the Medway Local Plan 2003.

- 8 The use shall not commence, until provision has been made on site for the parking, loading and off-loading and turning of vehicles, including HGVs has been provided, surfaced, drained and marked out on site, in accordance with details to be submitted to and approved by the Local Planning Authority. Thereafter the approved parking, loading, off-loading and turning areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude its use.

Reason: Development without provision of adequate accommodation for the parking, loading, off-loading and turning of vehicles is likely to lead to hazardous conditions in the public highway and in accordance with Policy T13 of the Medway Local Plan 2003.

- 9 The access shall not be used until the area of land within the 90m x 2.4m x 90m vision splays shown on approved drawing number 2693/06 has been reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 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 that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy T2 of the Medway Local Plan 2003.

- 10 The construction of the earth bund shall not take place until details of the type or types of material(s) to be used in association with these works has been submitted to and approved in writing by the Local Planning Authority. The bund shall be constructed from the approved materials and shall thereafter be retained.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 11 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the

developer has submitted a method statement, and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 12 The use hereby permitted shall only operate between the hours of 07:00 and 17:00 Mondays to Fridays inclusive and between the hours of 07:00 to 13:00 on Saturdays and shall not operate on Sundays and Public Holidays, except in the event of highway emergency repairs. A register of such emergency repairs shall be kept and submitted to the Local Planning Authority within 48 hours of their written request.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 13 In the event that use ceases and does not recommence for a period of two years or such longer period as may be agreed by the Local Planning Authority, the workings shall be deemed to have been abandoned and the site shall be restored and landscaped in accordance with a timetable and scheme of restoration to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development does not prejudice conditions of amenity in the area in accordance with Policy BNE6 and BNE25 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report. Section 106**

## **Proposal**

Change of use of land from farm yard and agricultural land to provide a facility to produce hydraulically bound material (HBM) from recycled aggregates for use in the road building and in the construction industry.

There are currently four vehicular access points onto the north side to Malmaynes Hall Road, from the farm. The eastern-most access serves the solar farm, the adjacent access serves the farm and to the west there is a second access into the farmyard. Beyond this to the west side of the farmyard is another access which is currently temporarily blocked-off to prevent unauthorised access to the farm. It is proposed to close the western-most access and to create a new access directly onto the part of the site relating to this application.

The raw material for this product consists of recyclable materials - brick, ballast, concrete and asphalt wastes. Only materials suitable for use in manufacture of the products the company supplies will be accepted. The process will involve the crushing and screening of the material, sorting into various grades of secondary aggregates

and these will be fed into the mobile cold recycling mixing plant to produce the HBM.

The use requires sufficient space to enable area large mobile plant to operate, space for storage of material before it is processed and whilst it is in course of production, together with space for the storage of the manufactured secondary aggregates. The materials will be stored in well managed stock piles within the site.

The following plant will be used on the site:

- Mobile excavator;
- Mobile wheel loader;
- Mobile impact crusher;
- Mobile cold recycling mixing plant.

A weighbridge is proposed to be installed close to the site entrance and a portable office will be provided.

A 4m high bund is proposed along the western and northern boundaries of the site to provide screening of the activity, stock- piled materials and the associated facilities, and to act as a sound barrier.

It is submitted that 6 members of staff would be employed at the site.

## **Site Area**

Site Area: 1.4 hectares (3.45 acres)

## **Relevant Planning History**

MC/17/3334	Variation of condition 3 of planning permission ref: MC/14/2082, to extend the expiration period from 28 to 30 years and 6 months Approved With Conditions 21/12/2017
MC/15/2380	Application for a non-material amendment to planning permission MC/14/2082 (Installation of a solar energy facility utilising solar photovoltaic panels) for refinement of the final layout (as built) and details of electrical buildings, fencing and CCTV Approved with conditions 21/07/15
MC/14/3402	Details pursuant to condition 09 of planning permission MC/14/2082 for installation of a solar energy facility utilising solar photovoltaic panels Condition discharged 19/01/15
MC/14/3347	Details pursuant to condition 6, 7, 8, 12 and 13 of planning permission MC/14/2082 for installation of a solar energy facility utilising solar photovoltaic panels Condition discharged 15/01/15

MC/14/2082

Installation of a solar energy facility utilising solar photovoltaic panels  
Approved with Conditions 06/11/14

## **Representations**

The application has been advertised on site and in the press as a major development and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**Stoke Parish Council, Environment Agency, Southern Water and KCC Biodiversity** have also been consulted.

**11 letters** have been received raising the following objections:

- Loss of agricultural land;
- Additional traffic generated;
- Additional surface water run-off;
- Loss of habitat for wildlife - bats, woodpeckers, small mammals and insects;
- Noise;
- Lighting;
- Fumes;
- Mud on road;
- Dust
- Impact on drainage and water pressure;
- Concerns expressed regarding security;
- Concerns regarding operating hours;
- Use should be located in an industrial area.

**Stoke Parish Council** has written raising no objection.

**The Environment Agency** has written to state they have no objection to the proposal.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform. The Kent Minerals Local Plan 1993 – Construction Aggregates is also relevant to this application.

## **Planning Appraisal**

### *Background*

The site would be operated by OCL Regeneration Ltd., who provide materials for construction sites and particularly for road building and repair of roads. They need to have ready access to the national road and motorway network for delivery of materials

to sites. This site meets the criteria by providing direct access onto A228 which provides access to A2/M2 and A289.

### *Principle*

The site is within open countryside and therefore Policy BNE25 of the Local Plan which identifies criteria against which such proposal will be assessed is relevant. Policy BNE25 also states that development in the countryside will only be permitted if it maintains, and wherever possible enhances, the character, amenity and functioning of the countryside.

The proposal is not for a use that would essentially demand a countryside location and in this regard would be contrary to Policy BNE25 of the Local Plan. The site is not within an area with any other special designation such as AONB or SLA, and there are no other countryside protection policies that would be relevant.

Paragraph 109 of the NPPF states that '*The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes*'.

Whilst the site is in the countryside, it is not within any designated area and as such cannot be considered a valued landscape. Planning Practice Guidance 'Minerals' (17 October 2014) is still relevant but this relates primarily to the extraction and safeguarding of mineral reserves. The proposal does not involve the extraction of minerals and in this regard there is no restriction on the location of the site in terms of needing to be close to the source of the materials.

The applicant was asked to justify the choice of the site and location and advises that he has been seeking a site for the past 32 months. He has listed 17 sites mostly within Kent, two in Medway (Gillingham), but also sites in East Sussex and Surrey. However, none of these sites have been suitable for the proposed use, when considered against the criteria for providing a site for this use. A list of these sites, and the reasons why they are not suitable, was submitted with the application. It is submitted that the proposal provides an alternative use of part of the farm, resulting in diversification, and it meets the requirements of the operating company.

### *Farm diversification*

In terms of farm diversification, Policy BNE28 of the Local Plan and paragraph 28 of the NPPF support and promote development and diversification of agriculture and other land-based rural businesses.

In terms of farm diversification, the agricultural holding to which the application site relates covers an area of approx. 712 ha. Apart from parts of the site occupied by buildings, yards etc., and the approx. 24 hectares covered by the solar farm, the majority is still in agricultural use.

## *Agricultural Land*

Policy BNE48 of the Local Plan is not a saved policy of the Local Plan and therefore, the impact on agricultural land is assessed against paragraph 112 of the NPPF. Paragraph 112 says that proposals should take account of the economic and other benefits of the best and most versatile agricultural land.

The applicants have submitted agricultural land classification documents following a survey by Soil Environmental Services dated March 2017. The land is identified as Grade 3a, although according to the Land Classification Map the area as a whole is Grade 1.

In this instance, whilst this application would result in the loss a relatively small area of agricultural land, amounting to 0.2% of the total land area. 93% of the farm holding would remain in agricultural use. The applicants have submitted information to demonstrate that they have been unable to find suitable alternative sites. The proposed use, being a mineral related open air activity would not be readily suited to industrial/employment sites within the urban area which are predominantly operated by buildings. Having regard to these considerations, it is considered on balance that the proposal, no objection is raised to the loss of agricultural land under Paragraph 112 of the NPPF.

## *Design and appearance*

This application relates to a field site of 1.4 hectares on the north side of Malmaynes Hall Road to the west of the villages of Stoke, Middle Stoke and Lower Stoke, together with a former yard area which is overgrown and surrounded by scrub. There is a small pond within this yard area. The site has a frontage to the road of approx. 33m, but it widens to approx. 110m within the middle section at one point before reducing to approx. 70m at the rear boundary. The site is approx. 225m in depth. There is a collection of farm buildings, next to the front of the site, although these buildings do not form part of the application site. However, the land to the rear of these buildings is included within the site.

The site is within open countryside and generally surrounded by farmland with an orchard to the west, arable farmland to the east, and to the south, on the opposite side of Malmaynes Hall Road. To the north of the application site, is a recently constructed solar farm, which covers an area of approx. 24 hectares. The access road to the solar farm road is immediately adjacent to the application site.

Policy BNE1 of the Local Plan and paragraph 58 of the NPPF requires development to be appropriate in relation to the character, appearance and functioning of the built and natural environment, whilst Policy BNE25 requires development in the countryside to maintain and where possible enhance the character, amenity and functioning of the countryside. Policy BNE6 of the Local Plan requires major development to have a structured landscaping scheme.

Whilst the proposal does not relate to development as such, regard should still be paid to its impact on the character and appearance of the surrounding countryside. The Medway Landscape Character Assessment 2011 describes the area (Hoo Peninsula



Farmland) as undulating open farmland with a weak landscape structure and a lack of distinctiveness. Detracting features include roads (A228), power lines and industrial areas at Grain and Kingsnorth, which are visible from much of the peninsula. Guidelines for the area include strengthening the landscape structure and planting new hedgerows.

The proposal would involve plant and open stockpiles of aggregates, together with portable buildings and HGVs, and would not, in itself enhance the character of the area. However, accepting the principle of the proposal, the scheme, includes a 4m high bund, with planting on the western and northern boundaries. No bund is shown on the south (front) boundary, although existing trees are shown to be retained. This boundary is smaller and being the front comprises the site entrance leaving little scope for a bund. Existing planting is shown to be retained either side of the proposed vehicular access. However, some of the trees may be lost to achieve adequate visibility splays. There is scope for new planting along this frontage and a condition to this effect is recommended. Similarly, there is scope for additional planting along the eastern boundary where existing trees are also shown to be retained.

Subject to an appropriate condition requiring landscaping, no objection is raised in terms of the appearance in the countryside under paragraph 58 of the NPPF, Policies BNE1, BNE6 and BNE25 of the Local Plan and Policies CA19, CA20 and CA22 of the Kent Minerals Local Plan.

### Amenity

There are no immediately adjoining residential properties, the nearest properties being at Upper Stoke between 500m and 600m south-east of the site. The site is also visible from Lower and Middle Stoke, approx. 1,300m to the east. In addition, there are isolated properties approx. 700m to the west, at Turkey Hall Farm and New Barn Farm. The issues that to be considered are the impact of the proposal terms of noise and disturbance, dust, fumes and lighting.

### *Noise*

It is submitted that the provision of an earth bund and the presence of existing farm buildings would provide acoustic screening from site operations, which is accepted in principle. In addition, regard should be had to the distance of the residential properties, although the local setting and open character of the area need to be taken into account, together with road traffic noise generated by the A228. It is, therefore recommended that in the event of planning permission being granted, a scheme to minimise the transmission of noise is submitted to and approved by the Local Planning Authority before any part of the development is brought into use.

The applicant advises that the use would operate between the hours of 07:00 and 17:00 (Monday to Friday) and 07:00 and 13:00 on Saturday, with no working on Sunday or public holidays, except in respect of emergency highway repairs. It is recommended that a condition be attached to any planning permission restricting the use to these hours and monitoring the emergency repairs.

Subject to these conditions, no objection is raised in terms of noise under Paragraphs

17 and 123 of the NPPF, Policy BNE2 of the Local Plan and Policy CA18 of the Minerals Local Plan.

### *Air Quality*

The proposed activities could give rise to dust emissions. A condition is, therefore recommended to address this. In addition, an Environmental Permit, as prescribed by the Environmental Permitting (England and Wales) Regulations 2016 would be required and an informative would be attached to any planning permission bring this to the applicant's attention.

Whilst there have been odour issues associated with the use, typically due to the heating of asphalt type materials, the proposal is for a cold process and odour should not be an issue at this site.

Subject to an appropriate condition in respect of dust emissions, no objection is raised in terms of air quality under paragraph 124 of the NPPF, Policy BNE24 of the Local Plan and Policy CA18 of the Minerals Local Plan.

### *Lighting*

It is submitted that lighting will only be in operation if the site needs to operate in winter beyond the normal extent of daylight hours. No details of lighting have been submitted with the application. In the event of planning permission being granted it is recommended that a condition be attached to any planning permission requiring the submission and approval of lighting. Subject to this condition, no objection is raised under paragraph 125 of the NPPF and Policy BNE5 of the Local Plan and.

### *Highways*

It is submitted that an average of 20 HGV movements a working day would be generated by the proposal which equates to one every 36 minutes. This level of traffic generation is not considered to be excessive.

The proposal would involve the opening up of a new access onto Malmaynes Hall Road. The road is relatively straight at this point with a 40 mph speed limit. It is considered that adequate visibility could be achieved, although this is likely to involve the removal of some trees, which could be replaced outside the splay. A condition is recommended requiring visibility splays to be provided before the use of the access is commenced, and to be retained.

It is submitted that on site parking and turning would be provided for HGVs and operatives vehicles, although no details are shown on the submitted drawings. There would appear to be adequate space for parking to be provided. A condition, is therefore, recommended, requiring the submission and approval of these details before any works commence.

Subject to these conditions, no objection is raised in terms of highways under Policies T1, T2 and T13 of the Local Plan and Policy CA16 of the Kent Minerals Local Plan.

In addition, Policy CA21 of the Kent Minerals Local Plan seeks to protect public rights of way. No public rights of way are affected by the proposal.

### *Contamination*

It is recommended that a watching brief condition be attached to any planning permission to address any unexpected contamination that may be found on site. Subject to this condition no objection is raised in respect of contamination under paragraph 121 of the NPPF, Policy BNE23 of Local Plan and Policy CA23 of the Kent Minerals Local Plan.

### *Ecology*

The applicant included an Ecological Report relating particularly to Great Crested Newts and Reptiles which were considered likely to be present on this land. However, no Great Crested Newts were recorded during the survey and therefore the species is considered likely to be absent from the land.

The Reptile Surveys indicated a low population of common lizard with a peak count of 3. Appropriate measures to ensure the welfare of reptiles will be required and a Reptile Translocation exercise is considered to be appropriate as a suitable habitat is likely to be available within the nearby solar farm. This can be achieved through relaxed management of the land within the solar farm and the provision of log piles and hibernacula that will significantly increase the sites capacity to support the numbers of additional reptiles to be relocated. A condition in this regard is recommended.

The provision of the bund walls that will be planted with a wild flower mix will provide an ecological enhancement of the site. Subject to an appropriate condition in relation to the translocation of reptiles, no objection is raised under paragraph 118 of the NPPF and Policy BNE39 of the Local Plan.

### *Local Finance Considerations*

There are no local finance considerations raised by this application.

## **Conclusions and Reasons for Approval**

The principle of the proposed development is acceptable in terms of the proposed use, farm diversification and agricultural land, and no objection is raised in this regard under Policies BNE25 and BNE28 of the Local Plan, Paragraphs 28, 109 and 112 of the NPPF and the Kent Minerals Local Plan. Subject to appropriate conditions, no objection is raised in terms of design and appearance, noise, air quality, lighting, traffic generation, access, parking, contamination and ecology. The application would, therefore, comply with Policies BNE1, BNE2, BNE5, BNE6, BNE23, BNE24, BNE25, BNE39, T1, T2 and T13 of the Local Plan, Paragraphs 17, 58, 118, 121, 123, 124, and 125 of the NPPF, and Policies CA16, CA18, CA19, CA20, CA21, CA22 and CA23 of the Kent Mineral Local Plan - Construction Aggregates 1993 and is recommended with for approval.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>