

A01

F/TH/17/0770

PROPOSAL: Retrospective application for excavation works to level site and create vehicular access onto Farley Road

LOCATION: Land West Of Farley Road MARGATE Kent

WARD: Salmestone

AGENT: Mr D Brown

APPLICANT: Mr D Manyweathers

RECOMMENDATION: Approve

Subject to the following conditions:

1 Within six weeks from the date of this decision, the reptile exclusion fencing to the southern boundary of the site shall be replaced or repaired, with details of the repair works or the replacement fence (which shall include height, design, materials and exact location) to be first submitted to and approved in writing by the Local Planning Authority. The repaired/replacement fence shall be installed in accordance with the approved details.

GROUND:

To safeguard protected species, in accordance with the NPPF.

INFORMATIVE

Please be advised that whilst the creation of an access is being considered through this application, this is solely as a maintenance/monitoring access, and the use of the access for any future alternative use/form of development will require further consideration as part of its respective planning application as to its suitability in respect of highway safety.

SITE, LOCATION AND DESCRIPTION

The site is located on the edge of Margate and constitutes a redundant section of the old Margate Railway line. The site is a strip of land running parallel to Nash Road, and located at the head of Farley Road, and falls adjacent to existing residential properties at the end of Farley Road. The site is outside, but adjacent to, the urban confines, and the site constitutes non-previously developed land.

RELEVANT PLANNING HISTORY

Since 2004 there have been various planning applications on different parts of the former railway line. For this specific part of the former railway line there has been only one previous application.

F/TH/14/0887 - Engineering operation to reduce level of site and use of excavated material to fill railway cutting - Granted - 22/07/15

PROPOSED DEVELOPMENT

The application is retrospective, and is for excavation works to level the site, along with creating a vehicular access onto Farley Road. An application has previously been approved for the excavation of part of the site up to 1m. This application is for the increase in the depth of excavation works to be carried out, ranging from the 1m already approved up to a depth of 1.6m, in the area where a new vehicular access into the site is to be created. The vehicular access was required to enable vehicles to enter the site to carry out levelling works, and to gain access to the reptile receptor site.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan (2006)

D1 - Design

D2 - Landscaping

CC1 - Countryside Development

CC2 - Landscape Character Area

NOTIFICATIONS

Neighbouring occupiers have been notified. 70 letters of objection have been received. The main concerns are:

- congestion,
- road is narrow and often parked up,
- Water and drainage problems, dropping the land level will result in flooding,
- loss of trees/hedges,
- highway safety, construction vehicles on the road carrying out dangerous manoeuvres,
- work has been carried out during weekends and public holidays, causing dust and a noise disturbance for residents,
- road is being left with dirt and chalk from the application site,
- impact on wildlife,
- work occurred without planning permission.

CONSULTATIONS

KCC Highways and Transportation - Without assuming the future use of the site the highway authority (HA) would not be able to comment on the suitability of the access for housing or any change of use. Based on the information provided by the applicant, the highway authority would be happy for the access to be maintained for ongoing ecological surveys / studies, but any future applications will need to include access matters.

KCC Biodiversity Officer - We have reviewed the submitted information and had a discussion with the ecologist and we have the following comment to make.

We accept that sufficient information have been provided for the determination of the planning application.

Reptiles

The information submitted has confirmed the following :

- o A receptor site for reptiles was established with input by a qualified ecologist and enhanced on the south part of the site area (An updated and attached map submitted by the ecologist on the 21st of June 2017 shows the right location of the receptor site at the south part of Farley Road, outside of the development area).
- o A previous reptile translocation was undertaken in 2016 but was not carried out by an experienced ecologist - instead the applicant carried out the translocation works. This is not acceptable and translocations and subsequent destructive searches should always be carried out by someone with experience to ensure that it is carried out appropriately with minimal stress to individuals.
- o The exclusion fence along the receptor area is in a poor state and a new reptile survey was undertaken by the ecologist in June 2017 which concluded that the development site is considered likely to support a modest number of slow-worms with a peak count of 5 individuals
- o The ecologist confirmed that the receptor area is safe from development and provides a suitable location for translocated slow worms and can support a breeding population.

We are satisfied that the results from the reptile survey are sufficient to inform the submitted Reptile Mitigation and recommend implementing it as a condition of planning permission if granted.

We suggest the following condition wording :

Prior to the commencement of development, including site clearance, the reptiles within the application site shall be captured and relocated to the identified receptor site, by a qualified ecologist, as shown in Fig. 7.1 Proposed Receptor Area, Calumma drawing No 1617/30/2/7.1, June 2017. The translocation shall be carried out in accordance with the mitigation detailed in paragraph 8.2 of the Reptile Survey, Calumma, June 2017.

The reptiles' receptor site shall be prepared and managed appropriately by a qualified ecologist, in accordance with the measures detailed in paragraph 8.3 of the Reptile Survey, Calumma, June 2017.

Reptiles are usually active between April and September (weather dependent) and translocation works have to be carried out as soon as possible to ensure there is sufficient time to complete the translocation this year.

The development works cannot commence until the applicants' ecologist is satisfied that the translocation has been completed. If the translocation works are not completed by September, it will have to stop and re-start during the next season in April 2018.

The results of the monitoring surveys must be submitted to TDC.

It has been noted that the reptile exclusion fencing constructed previously alongside the proposed receptor site requires urgent attention and should be replaced or repaired as soon as possible. In addition, we recommend setting up Heras fencing in front of the exclusion fence to be clearly demarcated and protected from construction traffic during the works - this will ensure that the receptor site is not damaged (and reptiles injured/killed when the works are being carried out).

The fence has to be checked on weekly inspection and must be repaired immediately following any damage.

We advise to include those measures into the Construction Environment Management Plan and secure it as a condition of planning permission if granted.

Natural England - No comments

KCC Archaeology - I understand that the site has already been subject to excavation works under permission 14/0887 and this application is to regularise the position. If further groundworks are to be undertaken and they extend to beneath the level of the former embankment then provision should be made for an archaeological watching brief. That would be consistent with advice on other sections of this disused railway.

COMMENTS

The planning application is brought before Planning Committee as it represents a departure from Thanet Local Plan Policy CC1. The main issues for consideration are the principle of development, the visual impact of the proposed engineering operation, highways and environmental matters, and other matters raised by neighbouring property occupiers.

Principle

The site lies adjacent to but outside of the urban confines, within the countryside where new development will not be permitted unless there is a need for the development that overrides the need to protect the countryside.

It is not evident that there is a need for development that could be weighed against the general need to protect the countryside; therefore the proposal does not accord with Thanet Local Plan Policy CC1.

Character and Appearance

The site forms part of a disused railway line, and currently falls outside of the urban confines. The site is located at the head of Farley Road, and lies adjacent to two existing properties within Farley Road. To the south west of the site is countryside, and to the south of the site is a reptile receptor site, which has been used to accommodate most of the reptiles identified along other parts of the disused railway. To the north of the site the former railway has been split into smaller sites, and excavation works have been carried out, with planning permission granted for both residential development and the extension of gardens to existing properties.

Planning permission has previously been granted in 2014 for the excavation of the site up to one metre. This did not include the provision of an access. Since the 2014 was approved, excavation works have been carried out at the site, but following numerous site visits during the excavation works, it became clear that the excavation works that were being carried out were greater than that previously approved.

As part of this application a level survey has been submitted, including sections, that shows the height of the original level of the land in relation to the existing land level. The area where the greatest excavation works have been carried out are in the area where the access is proposed, with excavation of up to 1.6m having taken place in order to provide a sloping access that connects to the existing road level.

There are no protected trees on the site, and many of the trees along the boundary of the site have been retained.

The reduction in the height of the land by up to 1.6m has integrated the land into the existing street scene, and as such it could not be argued that the reduction has been significantly harmful to the character and appearance of the area, especially given the fall-back position of the previous planning permission that allowed excavation works of up to one metre. Whilst the site is located just outside of the urban boundary, the reduction in land level has not significantly impacted upon views from the countryside and therefore whilst there is not considered to be a need for the proposed works, it is not considered that any wider landscape harm has accrued from the development.

Living Conditions

The reduction in land level has not impacted upon neighbouring light or outlook. If anything the reduction in land level may have improved light and outlook to no. 36 Farley Road, who have side windows facing the site.

Concerns have been raised by residents regarding noise and disturbance and dust from the works, however, these works have already been completed and so there is unlikely to be any further harm to residents. In any event, noise and disturbance and dust during development works is not a refusal reason when considering a planning application.

Transportation

The impact upon highway safety is one of the main concerns raised by residents. The concerns of residents are understood, in that this is a narrow cul-de-sac, and therefore the presence of construction traffic and additional vehicle movements through the road may have resulted in some recent highway safety problems. Unfortunately, it is not possible to refuse a planning application on the basis of the inconvenience caused during the development works process. This application is also retrospective with the levelling works complete.

In terms of the new access, consideration can only be given to the creation of an access to the vacant site, and cannot be assessed as an access to any future potential development of the site. KCC Highways and Transportation have been consulted and have advised that based on the information provided by the applicant, they have no concerns with the access being maintained for ongoing ecological surveys / studies; however, any future applications for new development will need to include access matters. The adequacy of the access for any new uses/development will be assessed in any future applications if they are received.

The access is therefore considered to be acceptable, as the only additional vehicle movements likely to result would be in relation to the reptile receptor site, or to gain maintenance access of adjoining land. The number of trips created is unlikely to result in a severe harm to the highway network. The impact upon highway safety is therefore considered to be acceptable.

Biodiversity

With regards to the reptiles that have previously been identified on the site, a receptor site for the reptiles was established on the southern part of the site. Reptile translocation was undertaken in 2016 but was not carried out by an experienced ecologist - instead the applicant carried out the translocation works himself, and therefore a report was requested by KCC from a qualified Ecologist to advise on the acceptability of the receptor site, and the presence of reptiles within the receptor site. A new reptile report was submitted in June 2017, which confirmed that whilst the fencing of the receptor site was in a poor state, the development site was considered likely to support only a modest number of slow-worms with a peak count of 5 individuals. The ecologist confirmed that the receptor site is safe from development and provides a suitable location for translocated slow worms and can support a breeding population. In response to this report, KCC have advised that they are satisfied with the results from the reptile survey, which are sufficient to inform the submitted Reptile Mitigation.

Whilst a condition requiring the reptiles to be captured and relocated prior to the commencement of works has been recommended by KCC, the application is retrospective, and therefore it is not intended for any further works to be carried out at this stage. It has been noted, however, that the reptile exclusion fencing constructed previously alongside the proposed receptor site requires urgent attention and should be replaced or repaired as soon as possible. The replacement/repair of the fencing is matter that can be covered via condition, as the creation of an access is likely to create the potential for harm to reptiles that

may move onto the application site from the receptor site. Again, Heras fencing is not required as there is no further construction works proposed.

Other Matters

Concerns regarding drainage have been raised by residents. The excavation works have already taken place, and the agent has confirmed that no water mains were found.

In terms of the potential for flooding, the access is not to be re-surfaced as part of this application, and therefore the potential for surface water runoff onto the highway is considered to be no worse than with the previous land level, which also saw a slope towards the road but from a greater height.

Conclusion

The development would be a departure from Local Plan Policy CC1, as there is no need for the development within the countryside. However, notwithstanding this, the excavation has not resulted in any visual or landscape harm to the character or appearance of the countryside or residential area; therefore the development has had a neutral impact on the Countryside. All ecology concerns on the site have previously been dealt with, and no highway safety concerns are raised in relation to the creation of an access for maintenance access and access for the monitoring of the receptor site. The application therefore represents an acceptable departure from Local Plan Policy CC1 and is recommended for approval.

Case Officer

Emma Fibbens

TITLE: F/TH/17/0770

Project Land West Of Farley Road MARGATE Kent

Scale:

