

Grounds Of Appeal for APP/G1440/A/14/2213800 relating to Messens Farm, Potmans Lane, Bexhill.

Approval under reference WD/720/CM

This appeal relates to the imposition of Conditions on the approval which are conflicting in nature and we believe to not be within the scope of a Planning Authority to place such time limits where they may cause contravention of other legislation.

This application was made following the commencement of works on a previous approval WD/689/CM and the visit to the site by a Planning Officer, an Enforcement Officer and an officer from the Environment Agency. At that meeting it was requested that further information and planning application be made and after some weeks, rather than seek an amendment to the original planning application and the relevant fee for the additional area concerned we were told that we should submit a **‘Complete new application covering the whole application site including the area already approved’** and with it the required planning fee. **This is therefore in no way a retrospective application**, even though some of the works have been carried out in another approval, that approval is current and could be reverted to.

We therefore consider that this is an application independent of any previously approved that could be enacted and as such could have been refused and the applicant would be required to only carry out the development approved under WD/689/CM.

The conditions that are appealed are:

3. A temporary 15 metres long.....should be constructed within 4 weeks of the date of this permission..... Completion of the development.
9. By 20th December 2013, full details of the with the approved timetable.
10. Within two weeks of the date of this.....sample materials.....approved details.
15. Within two weeks of the date.....signage.....not exit the site and travel north on Potmans Lane.

Conditions also relevant are:

7. No further tipping shall take place after 30th November until.....shall be replaced within seven days.

The conditions that are appealed are those that, although in principal agreed to prior to the approval, when doing so, we were not fully aware of the implications that information provided by the Environment Agency would have.

After the site meeting and at about the time of the receipt of the approval, because an application could not be determined until Planning Permission is received, we were informed that a Standard Permit was not appropriate. A Bespoke Permit was required due to the proximity of the Ancient

Woodland and the Environment Agency would first consider whether this is an operation for Deposit or Recovery before starting the procedure for issue of a Permit.

Therefore Condition 7 – prevents any further work being carried out as does the fact that a Permit for the works is not in place.

East Sussex County Council being the Waste Authority should be aware of this and the timescales involved in the procedure.

Condition 3 The timescale imposed on this conflicts with the requirements of the Environment Agency and the issue of a Bespoke Permit and would require re-commencement of works prior to that being in place.

The proposal required the applicant to provide a habitat survey and prior to commencement of works under the previous application, a watching brief during the initial stages of the works. The removal of an established deciduous hedge to provide for a temporary layby is contrary to all that. There are informal laybys adjacent to the entrance and ample space within the site for passing to render such destruction of the existing hedges unnecessary.

Condition 9 Requires the seeding details by 20th December 2013. The seeding plan was part of the approval and we have submitted details of the seeding previously and have had no response. We are unable to give a timetable of this work until we are in a position to recommence if and when a Permit is issued by the Environment Agency.

Condition 10 A short time limit on providing samples for the surface of the completed Ménage is not appropriate.

Condition 15 Requires signage warning drivers of a public footpath and that they should not travel north out of the site. Until the site is operational this is not appropriate.

We consider that conditions 9, 10 and 15 are reasonable requirements but the timescales imposed are, due to the Environment Agency requiring a bespoke Permit for the works, and should relate to the stipulation in condition 7.

We consider that condition 3 is completely unnecessary and was an appeasement to neighbours, not a considered planning condition.