

AGENDA MANAGEMENT SHEET

Name of Committee Regulatory Committee

Date of Committee 24th July 2007

Report Title **Bodmoor Green Farm, Kingsbury –
New Access, Demolition of Workshop,
Continued Use of Ancillary Operation of
Secondary Aggregate Production
Associated with Haulage Business**

Summary The proposed development comprises a new access, demolition of workshop, continued use of ancillary operation of secondary aggregate production associated with haulage business at Bodmoor Green Farm, Coventry Road, Kingsbury.

For further information please contact Richard Forbes
Planning Officer
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Would the recommended decision be contrary to the Budget and Policy Framework? Yes/No

Background Papers Planning Application registered 26/3/2007.
Email from North Warwickshire Borough Council Environmental Health dated 13/4/2007.
Email from Kingsbury Parish Council dated 18/4/2007.
Letter from North Warwickshire Borough Council dated 30/4/2007.
Seven representations.

CONSULTATION ALREADY UNDERTAKEN:- *Details to be specified*

- Other Committees Regulatory Committee – 24th May 2005.
- Local Member(s) Councillor Mrs J Lea – no comments received as
(With brief comments, if appropriate) at 10/7/2007.
Councillor B Moss– no comments received as at
10/7/2007.
- Other Elected Members

Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

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Chief Executive

Libraries, Adult Learning and Culture – no comments received.

Legal

I Marriott - comments noted.

Finance

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Other Chief Officers

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District Councils

North Warwickshire Borough Council – objects.
North Warwickshire Borough Council
(Environmental Health) - .no objection.

Health Authority

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Police

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Other Bodies/Individuals

Kingsbury Parish Council.
Nether Whitacre Parish Council.
Environment Agency – see paragraph 2.

FINAL DECISION

YES/NO (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee

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To Council

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To Cabinet

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To an O & S Committee

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To an Area Committee

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Further Consultation

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Regulatory Committee - 24th July 2007

**Bodymoor Green Farm, Kingsbury – New Access,
Demolition of Workshop, Continued Use of Ancillary
Operation of Secondary Aggregate Production Associated
with Haulage Business**

**Report of the Strategic Director for
Environment and Economy**

Recommendation

That the Regulatory Committee authorises the refusal of planning permission for the construction of a new access, demolition of workshop, continued use of ancillary operation of secondary aggregate production associated with haulage business at Bodymoor Green Farm, Coventry Road, Kingsbury for the following reasons:-

- (i) The proposed development would be contrary to Policy GD6 (Green Belt) in the Warwickshire Structure Plan 1996-2011 and to Policy ENV2 (Green Belt) in the North Warwickshire Local Plan 2006 because the development would adversely affect the open character of the area and the proposed use constitutes inappropriate development within the Green Belt as defined in paragraph 3.12 of PPG2 and policy ENV2 of the adopted local plan. In addition, the development would be contrary to guidance contained within PPS10 relating to development within the Green Belt.
- (ii) The proposed development would be contrary to Policy 6 of the Waste Local Plan for Warwickshire because it would have a significant adverse impact on the character of the locality.
- (iii) The access from which it is intended to serve this development falls significantly below acceptable standards in terms of vision splays which can be achieved at the proposed new access and its use for the purposes proposed would therefore be unacceptably detrimental to highways safety, contrary to the provisions of policy TPT3 of the North Warwickshire Local Plan 2006 and Policy 1 of the Waste Local Plan for Warwickshire.

Application No: NW1296/07CM011

Received by County: 26/3/2007

Advertised Date: 5/4/2007

Applicant(s) : Kingsbury Transport and Plant Ltd, Bodymoor Green Farm, Coventry Road, Kingsbury, Warwickshire, B78 2DZ.

Agent(s) : A L P Ambrose (Minerals Planning), Highway House, Asfare Business Park, Hinkley Road, Wolvey, LE10 3HQ.

The Proposal : New access, demolition of workshop, refurbishment of old workshop, continued use of ancillary operation of secondary aggregate production associated with haulage business.

Site and Location : 0.79 ha of land at Bodymoor Green Farm, Coventry Road, Kingsbury. [Grid ref: 333.947].

See plan in **Appendix A**.

1. Application Details and Background

- 1.1 This application has been submitted following the previous refusal of planning permission and a subsequently dismissed appeal for the retrospective use of land to facilitate the handling and sorting of concrete materials for the purposes of recycling to produce secondary aggregates as an operation ancillary to the primary use of the land as a transport depot. This development would increase the potential for recycling construction wastes from a variety of sources, primarily from the industrial and commercial sectors where specific wastes are known to contain a significant percentage of recoverable materials capable of being processed into secondary aggregates.
- 1.2 This new application is similar to the previous scheme along with some additional elements. The development can be summarised as follows:-
- (i) A retrospective change of use, limited to the area within the existing earth bunds, for use of the land to facilitate the handling and sorting of concrete materials for the purposes of recycling to produce secondary aggregates as an operation ancillary to the primary use of the adjacent land as a transport depot. (This is the element of the scheme that has been refused previously and dismissed at appeal.)
 - (ii) Both the jaw crusher used on site and the screen plant would be mobile enabling them to be used off site on construction sites.
 - (iii) Storage of source materials up to three metres in height and contained within a concrete wall structure up to 300 tonnes.
 - (iv) Storage of recovered and recycled products restricted to two metres in height and 1000 tonnes.
 - (v) The removal of an existing barn workshop covering around 140 m².

- (vi) The refurbishment of the existing old workshop, including the addition of office space enabling the removal of portacabin buildings and a two metre extension to the front of the building in the workshop area.
 - (vii) The provision of a new entrance for HGVs from Hurley Lane. This would upgrade the existing farm access track to a six metre wide concrete road.
 - (viii) Internal concrete roads.
 - (ix) Off site landscaping.
- 1.3 Since the previous application and appeal a number of tweaks have been made to the recycling proposal. These include limiting source material stockpile heights to three metres contained within a concrete wall structure, lowering the height of crushing plant on site and stockpiles of recovered materials limited to two metres in height. All of these are intended to ensure that operations are given greater screening from the existing screening bund.
- 1.4 It is not intended to open the site to any other operators, and material would only be brought into the site by the applicants own vehicles when returning to the site for overnight parking. There would therefore be no change in the number or types of vehicles accessing the site.
- 1.5 It is proposed to operate the facility between 0700 to 1800 hours Monday to Saturday with plant processing hours restricted to between 0900 and 1500 hours Monday to Friday with no operations on Sundays and Bank Holidays.

2. Planning History

- 2.1 The land to the south of the site was granted planning consent for the “mixed use for agriculture and as a haulage and plant depot (including the storage, repair and maintenance of vehicles and plant)” on 17th June 1993 on appeal, whereby no conditions were attached to the permission. At the same time the use of the north of the site, where aggregate recycling operations are now proposed, was the subject of an approval against an Enforcement Notice served by the Borough Council against the use of the land for plant storage. That Enforcement Notice remains valid and was upheld because the use was held to be inappropriate development in the Green Belt.
- 2.2 The screening bund enclosing the proposed recycling activities was completed in 2000, and is up to three metres in height. As the bund has remained in situ since this time it is no longer possible to insist upon their removal through enforcement action under the four year rule. As such the agent has indicated that they will remain whether permission is granted or not.
- 2.3 The previous application (Planning Reference NW1296/05CM012) relating to the use of land for the storage and processing of concrete to produce secondary aggregates was refused by the Regulatory Committee on the 24th May 2005. The refusal reasons covered inappropriate development within the Green Belt, adverse impacts on amenity in terms of noise and dust and the visibility standards of the existing vehicular access.

- 2.4 The County Council's decision was the subject of a subsequent appeal and the Inspector's decision was dated 15th May 2006. He noted that notwithstanding the mounds that have been constructed the extension of activities on site would result in a loss of openness and encroachment on the countryside. The parking of plant and vehicles would also be conspicuous, as such the Inspector agreed that the proposal would be inappropriate development in the Green Belt that would require very special circumstances to justify approval. He then concluded that proposed circumstances were not sufficient to outweigh the demonstrable harm to the openness of the Green Belt.
- 2.5 With regards to Highways safety, as there would be no increase in HGVs operating from the site the Inspector was satisfied that highways safety would not be materially affected. Whilst, he was also satisfied with the impacts on amenity would also be acceptable due to the distance to the nearest residential property, the background noise associated with the existing depot and the controls associated with the pollution and prevention control permit regime.

3. Consultations

- 3.1 **North Warwickshire Borough Council** – objects on the grounds previously raised that the site is within the Green Belt and that there is an extant Enforcement Notice preventing the use of the site for commercial purposes.
- 3.2 **Kingsbury Parish Council** objects as:-
- (i) The only lawful use of the land contained within the earth bunds is agriculture.
 - (ii) Under permitted development rules earth bunds should be no higher than two metres, they are considerably higher.
 - (iii) Parking of cars is dangerous and up to six cars park opposite the site in the farm gateway, which is dangerous.
 - (iv) Such use should be directed towards designated sites and not the Green Belt.
 - (v) The vehicular access is very dangerous with poor visibility.
- 3.3 **Nether Whitacre Parish Council** - no comments received.
- 3.4 **North Warwickshire Borough Council (Environmental Health)** – no objection.
- 3.5 **Councillor B Moss** – no comments received as at 10/7/2007.
- 3.6 **Councillor Mrs J Lea** - no comments received as at 10/7/2007.
- 3.7 **Libraries, Adult Learning and Culture** - no comments received.

3.8 **Environment Agency** - no comments received.

4. Representations

4.1 Six letters of support from businesses and residents stating the following grounds:-

- (i) Encouraging the recycling of materials.
- (ii) Limited supply of natural aggregates.
- (iii) Diversion of materials going to landfill.
- (iv) The operations would not be visible behind the bund.
- (v) Mud on the road has not been a problem.
- (vi) The company supplies many firms and private households with vehicles/plant.
- (vii) Local people are employed.
- (viii) No problems are caused to the surrounding area.

4.2 One letter of objection stating the following grounds:-

- (i) Busy road access.
- (ii) Hedgerows have been covered in dust/mud, which will get worse.

5. Observations

Site and Surroundings

5.1 The site is located to the north west of the City of Coventry some 12 kilometres from the centre. It is located 2.5 kilometres to the east of the M6 Toll and 8 kilometres to the east of the edge of the Birmingham Conurbation.

5.2 Bodymoor Green Farm is an isolated farm complex surrounded by open countryside comprising of former farm buildings now used by a car repairer, transport company and other commercial uses. To the south of these commercial units are a small number of residential properties, these are approximately 95 metres south of the recycling plant. Outside of the farm complex the nearest residential properties are located some 250 metres away at Bodymoor Green Cottages.

Planning Policy

- 5.3 The two principal areas of planning policy that the application needs to be assessed against are the Green Belt and sustainable waste management. National Planning Guidance on these issues is contained within Planning Policy Guidance Note 2: Green Belts and Planning Policy Statement 10: Planning for Sustainable Waste Management on these issues.

Green Belt issues

- 5.4 As illustrated in the planning history a major issue is the impact of the proposals on the Green Belt. When looking at the impact of the proposals on the Green Belt it is easier to look at the various elements of the proposals.
- 5.5 The removal of an existing Dutch barn feature within the complex of former farm buildings has been proposed. This would help to increase the openness of the Green Belt. It is a tall structure that can be seen from the open countryside outside the site as it taller than the complex's boundary treatment. Its removal would have a beneficial impact on the openness of the Green Belt despite the fact that the area would be used for lorry parking during the night and at other times.
- 5.6 The front extension of the existing workshop by two metres is also inappropriate development within the Green Belt and as such very special circumstances would need to be demonstrated to justify a grant of planning permission. In this case the removal of the temporary portacabin buildings when weighed against the modest two metre extension would be seen as a gain in terms of the openness of the Green Belt. As such there are very special circumstances that would justify this extension.
- 5.7 With regards to the new access arrangements, the access improvement would result from the expansion of an existing access rather than the provision of a new access within the open countryside. As such Green Belt openness would not be significantly compromised.
- 5.8 The main issue is whether the retrospective change of use of land from agricultural land to the processing of concrete waste is acceptable. The application proposes the removal of the prominent 14 metre by 10 metre Dutch barn structure that would enhance the openness of the site.
- 5.9 Furthermore, crushing/screening plant and stockpiles would be lowered to the height of the existing bunds which would screen the proposals further.
- 5.10 Planning Policy Guidance Note (PPG) number 2 addresses development within the Green Belt specifically and is the basis of Green Belt policy contained within the local plan. The purpose of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with their most important attribute being their openness. The PPG goes on to list a number of purposes of including land within Green Belts. One such purpose is to assist in safeguarding the countryside from encroachment, which would be the most relevant in this particular case.

- 5.11 The area for which the material change of use is being considered would need to be considered against the advice given in paragraph 3.12 of the PPG. This states that such changes of use are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.
- 5.12 In this particular case, the lawful use of the area is as agriculture despite the fact that it has been used for storage and waste processing purposes for sometime. Therefore, the change of use would run against the purposes of including land in Green Belts as it would result in a permanent urban encroachment into the countryside. The storage of processing plant and materials would compromise the openness of the site and therefore, unless very special circumstances are demonstrated to justify planning approval, such use would be inappropriate.
- 5.13 In assessing whether the removal of the barn structure would represent very special circumstances that outweigh the harm to the Green Belt associated with the change of use the footprint of the two areas needs to be considered. The barn covers around 140 m², whilst the area used for processing and storage is around 400m². Therefore, the loss of the barn would not outweigh the harm caused by the encroachment onto open land caused by the change of use.
- 5.14 The applicant identified two recent planning appeals that discuss similar issues. The Lidsey case is discussed in the following section relating to Waste planning policy. The other case relates to proposals for a waste transfer facilities and recycling activities within the Surrey Green Belt.
- 5.15 In arriving at his decision in the Surrey case the Inspector noted that two of the very special circumstances put forward by the applicant, namely the absence of non-Green Belt sites alternatives and the contribution towards sustainable waste management, would not on their own constitute very special circumstances. The Inspector stating that *"they are, after all, arguments that could be advanced in favour of any site in the Green Belt"*.
- 5.16 The Inspector's ultimate decision in the Surrey case granted consent due to the history and characteristics of the site where a consent existed for a commercial use. However, each application must be considered on its own merits and in the terms of Bodymoor, these have previously been considered in the Inspector's report who considered the development of the site to be inappropriate. Consequently, the proposed use is contrary to Green Belt Policy.

Waste Planning Policy

- 5.17 The agent has also argued that there has been a change in the planning policy background with regards to waste management facilities that would affect the determination of this application. In particular, Planning Policy Statement 10, regarding Planning for Sustainable Waste Management and a more recent judgement on the interpretation of PPS10 contained in the Lidsey cases.
- 5.18 In addressing waste developments within the Green Belt PPS10 in paragraph 3 states that Regional Planning Bodies and all planning authorities should, to the

extent appropriate to their responsibilities, prepare and deliver planning strategies that:-

“protect green belts but recognise the particular locational needs of some types of waste management facilities when defining detailed green belt boundaries and, in determining planning applications, that these locational needs, together with the wider environmental and economic benefits of sustainable waste management, are material considerations that should be given significant weight in determining whether proposals should be given planning permission”.

5.19 In addition, PPS 10 places the onus on Waste Planning Authorities to give priority to the re-use of previously developed land, and redundant agricultural and forestry buildings and their curtilages. In this case the lawful use of the area is agriculture and lies outside the curtilage of the nearby buildings therefore, it does not meet these criteria.

5.20 In this particular case, it has not been demonstrated that this kind of recycling operation needs to be sited within such an isolated Green Belt location. In addition, the existence of suitable commercial sites outside of the Green Belt, which would be more acceptable in planning policy terms has not been addressed.

5.21 This statement is further qualified in the companion guide to PPS10, which states that:-

“if the proposal relates to a site in a Green Belt, it is also likely to be inappropriate development. Criteria-based policies in LDDs need not, however, impose a total, blanket ban on the establishment of such sites in Green Belts. It may still be appropriate to grant planning permission if the applicant is able to demonstrate that very special circumstances exist that clearly outweigh the harm caused by the proposed site being developed in the Green Belt, and any other harm. Each case should be considered on its merits in accordance with the development plan and any other material considerations. But ‘very special circumstances’ means just that. The decision-maker must be able to point to circumstances which, viewed objectively, are reasonably capable of being described as ‘very special’.”

Both of these statements reinforce the need for very special circumstances when determining such applications. This has been discussed above and does not represent a significant departure from the guidance given in PPG2, especially when there may be more suitable areas outside the Green Belt

5.22 In the Inspectors decision letter relating to the previous appeal on this site, PPS10 was taken into account as he refers to the statement. As such he was happy that guidance contained in PPS10 did not represent a significant departure from existing Green Belt policy.

5.23 Policy 6 of the adopted waste local plan indicates that such facilities should be situated as an integral part of a waste disposal facility, on industrial estate or on land which has been used for commercial purposes and where the proposed

use would be compatible with surrounding land uses. The proposal would not accord with this policy.

- 5.24 The agent has suggested that a recent appeal case, the Lidsey case, which raises issues. Including the use of recently produced policy documents that had not been formally adopted that did not reflect PPS10 and the greater attachment of weight being given to PPS10 and its emphasis on planning positively for waste management. However, in this case the site in question was a landfill site and was not located in the Green Belt and in an area where there was no adopted local plan. As such the principals are not be directly relevant to this particular proposal.
- 5.25 The proposal would therefore remain contrary to Structure Plan Policy ER9 and policy 6 of the adopted Waste Local Plan. In addition, guidance outlined in PPS10 is not intended to replace any of the guidance outlined in PPG2 regarding Green Belts. In fact, the companion guide to PPS10 reiterates the need for very special circumstances when assessing inappropriate development in the Green Belt and the need for them to be *'very special'*.

Amenity

- 5.26 The main issues would relate to noise and dust emissions. A number of measures have been proposed to reduce such issues. These include lowering plant height to below the height of the site bunds, and various water suppression measures to reduce dust emissions. North Warwickshire Borough Council have also issued a permit under the Pollution and Prevention Control regime which controls emission into the air.
- 5.27 Internal haul roads would be constructed from concrete and mobile sweepers would be used to ensure these are kept clean and dust on the road is kept to a minimum. Other measures, such as the sheeting of loaded lorries is also proposed.
- 5.28 With regards to noise emissions, typical noise data associated with the types of plant used for the crushing and screening of concrete have been submitted. In addition the proposed operating hours for the processing plant are to be restricted to between 0900 and 1500 Monday to Friday and at these times noise generated would be heard against the background of other commercial activities, especially at the nearest properties to the south. In view of these measures, North Warwickshire Borough Council's Environmental Health Officer accepts that noise emissions audible from surrounding residential properties would be within acceptable limits.

Highways Issues

- 5.29 The current access has limited visibility and this formed a refusal reason on the previous application. To address this the upgrading of an existing farm access onto Hurley Lane has been proposed. However, the visibility standards associated with the new access would still be below recommended standards. The visibility to the east of the proposed access would be restricted in the 'y' distance to approximately 125 metres from a set back distance of 2.4 metres.

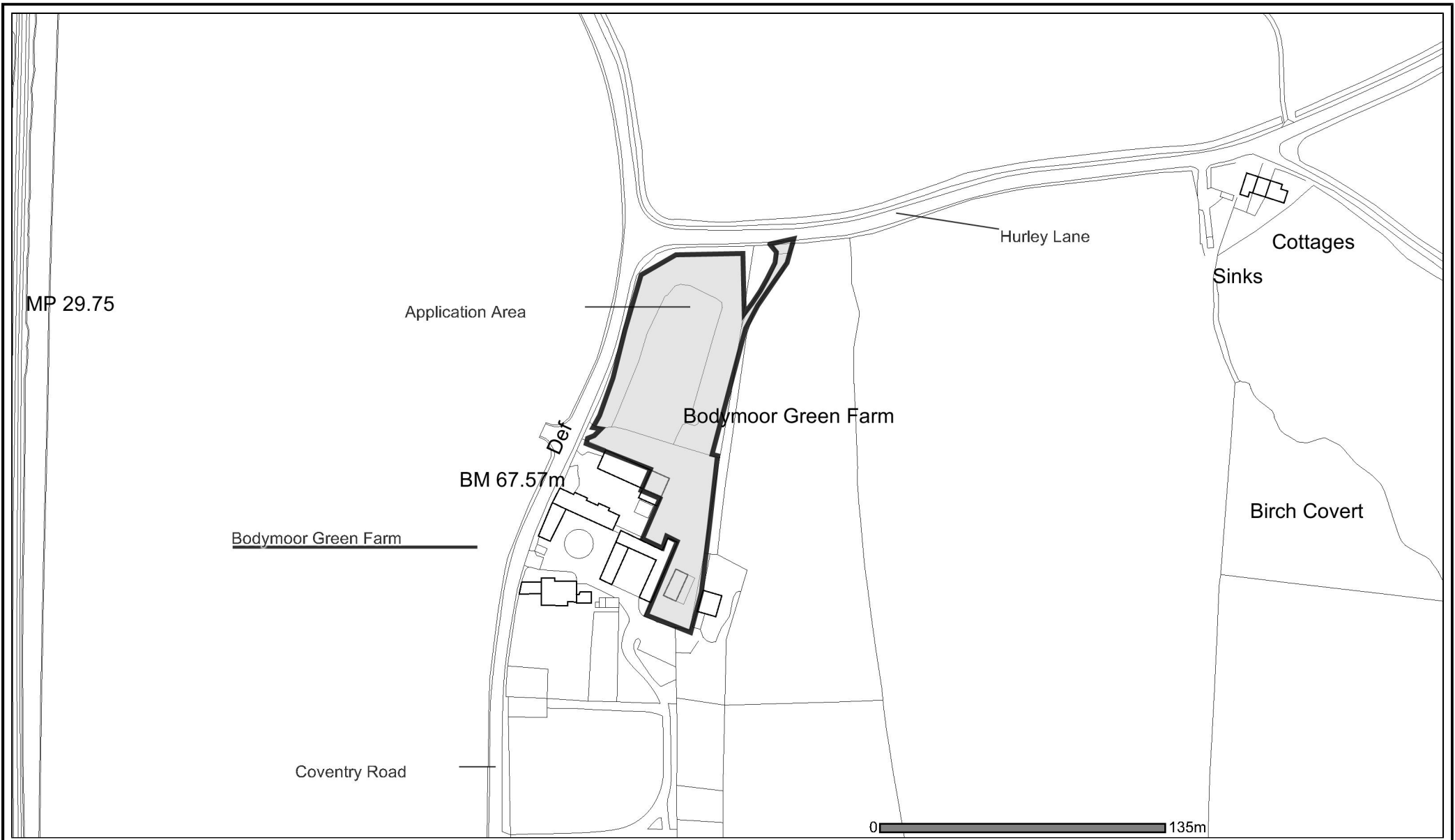
This contrasts with the advise given in Transport and Roads for Development: The Warwickshire Guide 2001 and Design Manual for Roads Bridges Vol 6 where a 'y' distance of 215 metres is recommended for a carriageway subject to the national speed limit.

Conclusion

- 5.30 The proposed development is contrary to the provisions of the Waste Local Plan (Policy 1 and 6), contrary to the provisions of the North Warwickshire Borough Local Plan (Policy ENV2), contrary to the provisions of PPG2 and PPS10 and has a valid Enforcement Notice upheld against a very similar use. The proposed development does not maintain the openness of the Green Belt and therefore by definition is inappropriate development requiring very special circumstances to be demonstrated to justify approval. In this case no very special circumstances to justify setting Green Belt Policy aside have been submitted. In addition the proposed access would not meet the relevant standards laid down in County guidance. Consequently, the proposed development is not appropriate in this location.

JOHN DEEGAN
Strategic Director for Environment and Economy
Shire Hall
Warwick

10th July 2007



Scale 1: 2500

Ref No. NW1296/07CM011

Drawn Richard Forbes

Regulatory Committee - 12 June 2007

Subject

Bodymoor Green Farm



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APPENDIX A OF AGENDA NO.