

NORTH HERTFORDSHIRE DISTRICT

**APPLICATION FOR LAND RAISING OF EXISTING LANDFILL SITE TO FORM A
LANDSCAPED WILDLIFE AREA AT VICARS GROVE, ST IPPOLYTS,
HERTFORDSHIRE.**

Report of the Director of Environment

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Local Member:- J Dwerryhouse-Spears, (future Local Member due to constituency boundary changes: - R Ellis)

1. Purpose of the report

1.1 To consider planning application number 1/0869-00 for land raising of the existing Vicars Grove landfill site near St Ippolyts to form a landscaped wildlife area.

2. Summary

2.1 The planning application is a revised submission for a similar development that was submitted in June 1999 under reference 1/0008-99. The applicant subsequently withdrew that application in April 2000. The site is a former sand and gravel quarry that is being infilled with inert waste. The amount of permitted voidspace remaining in the landfill amounts to around two years of infilling. This application is a land raising proposal as it involves the deposit of waste above the original level of the land.

2.2 The applicant is seeking permission for land raising which would require a further 210,000 cubic metres of inert fill and would be completed over a 13 to 16 year period. Restoration of the tipped area would involve a mixture of native woodland planting and grassland fields. The afteruse of the entire site would be a managed landscape wildlife area with a small car park allowing public access.

2.3 Operations at the site would take place in line with current working practices, that is, between 8 a.m. and 5 p.m. Monday to Friday. The average number of loads per day would be 5 (10 vehicle movements), although the applicant estimates that in the worst possible case scenario that 10 loads a day (20 vehicle movements) would be generated by the site.

2.4 An Enforcement Notice has been served as operations at the site (in this instance restoration of the site by infilling) should not be taking place until modern conditions have been submitted and approved by the County Council under the provisions of the Environment Act 1995. This Notice has been appealed. The implications of this matter are considered in the Part II report elsewhere on the Committee's Agenda.

2.5 The material considerations raised by this application are:

- whether the development is appropriate within the Green Belt;
- consideration of the development in the context of Waste Policy 24 (Land raising);
- whether the proposal is an acceptable landform;
- surface drainage from the proposed landform and impacts for the public highway.

3. Conclusions

3.1 The report concludes that, subject to:

- (i) within 3 months of the date of this Committee meeting, the prior submission of an acceptable pre-settlement contour plan incorporating both the removal of those existing soil bunds that are identified as having no significant ecological value and appropriate gradients to minimise surface water run off;
- (ii) in conjunction with the above, within 3 months of the date of this Committee meeting, the prior submission of an acceptable scheme relating to the provision and implementation of surface water drainage that meets the standards of both the Environment Agency and the Highway Authority in respect of discharge upon the County Road;
- (iii) the prior completion of a legal agreement to cover the implementation of a long term management plan for the existing areas of ecological interest (including the preservation of the remnant ancient woodland in perpetuity) and future planting that allows for informal recreation with public access on completion of restoration;
- (iv) the prior completion of a legal agreement for the construction of vehicle passing bays between the site and the B656 that meet the standards of the Highway Authority;

the Director of Environment should be authorised to grant planning permission, ref. 1/0869-00 with appropriate planning conditions to include the following matters:

- days and hours of operation (Mon-Fri 8 am to 5 pm);
- restriction of vehicle movements (no more than 20 movements per day);
- mud and dust control measures;
- noise limits;
- a phasing plan of infilling and restoration;
- soil handling arrangements;
- aftercare provisions.

1 Description of the site and proposed development

- 1.1 The site is located approximately two kilometres to the south of Hitchin and is to the west of Stevenage. Access to the site is gained via a local road that connects to B656 Hitchin to Codicote road. The site is well screened from any public viewpoint by a substantial belt of mature trees on three sides and is sited away from residential property.
- 1.2 The site has had the benefit of three permissions allowing sand and gravel extraction. These were granted in 1948, 1952, and 1963 respectively. A specific planning condition attached to both the latter permissions allowed for the importation of waste materials in order to restore the site following the cessation of extraction. The amount of remaining permitted void to be infilled amounts to around two years of working based on previous years' waste disposal. The application area covers some 8.5 hectares although only the central part of the site has been excavated and infilled with waste.
- 1.3 This application is a land raising proposal as it involves the deposit of waste above the original level of the land. The proposal would require a further 210,00 cubic metres of inert fill which would be completed over a 13 to 16 year period. It is proposed that the reclaimed land would be raised to the 100 metre contour whereas the current restoration scheme has a maximum height of 96 metres above ordnance datum. Restoration of the tipped area would involve a mixture of native woodland planting (60%) and grassland fields (40%). The afteruse of the entire site would be a managed landscape wildlife area with a small car park allowing public access.
- 1.4 Operations at the site would take place in line with current working practices, that is, between 8 a.m. and 5 p.m. Monday to Friday. The average number of loads per day would be 5 (10 vehicle movements), although the applicant estimates that in the worst possible case scenario that 10 loads a day (20 vehicle movements) would be generated by the site.
- 1.5 The site has also been the subject of various minor permissions and applications since 1972. More recently, in 1995, the southern part of the site was refused permission for the relocation of skip hire services and waste transfer facilities.
- 1.6 A previous planning application for a similar development was submitted in June 1999 under reference 1/0008-99. The applicant subsequently withdrew this initial planning application in April 2000.
- 1.7 The existing landfill has been working under two separate mineral planning permissions both of which, by condition, allowed the deposit of waste to restore the site to original ground levels. These two permissions were classified as "Dormant" in January 1996 under the provisions of the Environment Act 1995. This means that operations at the site (in this instance restoration of the site by infilling) should not be continuing until a full set of modern conditions have been submitted to and approved by the County Council. No conditions have been submitted by the operator to the County Council despite the continuation of infilling operations. In light of this the County Council served an Enforcement Notice in January 2000 which requires the operator to cease

waste importation at the site. The purpose of the Notice was to ensure that the operator could not claim immunity from Enforcement action thus reducing the County Council's control over the site. Further information on this matter is considered in a Part II item elsewhere on the Committee's Agenda. The operator has subsequently lodged an appeal with the Planning Inspectorate for which a Public Inquiry hearing is currently timetabled for January 2001. Clearly the outcome of this application will have implications for this appeal.

2 Consultations and representations

- 2.1 North Hertfordshire District Council (Planning) – Does not consider that there are any valid objections to raise with regard to the application on planning grounds, subject to full account being taken of the comments previously set out in response to the initial application. These comments were that they raised no objection subject to there being no objection to the proposal from the Environment Agency, a long term management plan of the site is provided and greater details on the depth of topsoil's be submitted.
- 2.2 North Hertfordshire District Council (Environmental Health) – Have no records of any complaints as a result of activities taking place on this site and are of the opinion that there are already sufficient controls attached to the site's Waste Management Licence to control issues of dust, noise and litter etc.
- 2.3 St Ippolyts Parish Council - Have made no comment regarding the resubmitted application but raised no objection to the initial proposal.
- 2.4 Preston Parish Council (adjoining) – Did not support the initial application as it was felt that the volume of traffic using the access road was already causing damage to the verges, and any further development would increase traffic over a much longer period in time. No comments have been received in respect of this application.
- 2.5 Environment Agency – Has no objection, in principle, to the proposed development provided that their suggested condition relating to a scheme for the provision and implementation of surface water drainage is imposed on any planning permission granted.
- 2.6 The County Council as Highway Authority – Recommends that should the Minerals Planning Authority (MPA) be minded to grant the above application then the issue of the decision notice should be deferred until:-
- the applicant has submitted to the MPA details of the design and implementation of surface water drainage system so that there is no discharge of surface water onto the U94 public highway;
 - the MPA, in consultation with the Highway Authority and the Environment Agency, has approved the design and the implementation of the surface water drainage system for the site.

Should the MPA be minded to grant the application then in addition to the above it is recommended that the following planning conditions should be attached: -

- the provision of passing bays within the highway verge of the U94 County Road between the site access and the B656 London Road;
 - all reasonable measures to ensure that vehicles leaving the site do not emit dust or deposit mud or other debris on the public highway.
- 2.7 Farming and Rural Conservation Agency – No comment.
- 2.8 Herts. and Middlesex Wildlife Trust – Has not made any representation to the resubmitted application but stated in their response to the initial application that the site is identified as a Wildlife Site by virtue of the remnant ancient woodland and the developing calcareous grassland around the margins of the working area. Furthermore that the protection of these features is essential and any proposals regarding the future of the site must not compromise the ecological interest. The Trust welcomes the intention to safeguard the ecological interest as set out in the application, however, details on maintenance and a management plan are required.
- 2.9 Hertfordshire Biological Records Centre – Concern that the natural drainage of the site (which runs south) is to be altered by doming of the site, this may have implications by the enriching of the surrounding nutrient poor soils by nutrient high imported soils. It will also be important that the resulting restored land surface reflects that of the surrounding area using the original topsoil that was stripped from the site and that now forms the bund.
- 2.10 Head of Landscape – Makes the following comments:-
- the existing soil bunds should be largely removed thus enabling a more natural landform to be achieved using the indigenous soil resource and reducing the rabbit population for the benefit of tree establishment. However, the area of Aspen that is of ecological importance should be retained along with the bunds on which it is growing;
 - broadly accepts that the revised proposals will not have a significant visual impact on people outside of the site although this will depend on the peripheral woodland being maintained in perpetuity. Future owners need to be committed to the appropriate management of views otherwise should the woodland be felled, the alien landform created by the proposal would become apparent.
- 2.11 Campaign for the Protection of Rural England – The current tipping operation is an intrusive alien activity in this sensitive, open Green Belt area and should not be allowed to continue beyond the currently agreed period. Do not believe that the new restoration proposals meet the requirements of Waste Policy 24 (Land raising) or 46 (Restoration, aftercare and afteruse).
- 2.12 Local representation – A total of 13 adjacent properties were consulted on the application of which there was one reply to the initial proposal. This expressed concern that the surrounding countryside is not harmed and the highway is not congested. No representations were received following consultation on the revised application and no other representations have been received.

3 Planning Considerations

- 3.1 The development plan for the area comprises the Hertfordshire Structure Plan Review 1991-2011 (April 1998), the Hertfordshire Waste Local Plan 1995-2005 (January 1999), the Hertfordshire Minerals Local Plan 1991-2006 (July 1998), and the North Hertfordshire District Plan 1996 – 2001 (April 1996).
- 3.2 The site is identified in Waste Policy 21 of the Hertfordshire Waste Local Plan as an existing mineral site where the disposal of waste by landfill will be permitted, subject to the requirements of Waste Policy 2 (Need for waste management facilities).
- 3.3 The site has also been classified as a Wildlife Site and this is due to the remnant ancient woodland around the periphery of the site that has been unaffected by mineral extraction and landfilling. The other reason for the classification is that there has developed on certain of the soilbanks calcareous grassland and Aspen tree cover. The site is within the Metropolitan Green Belt.
- 3.4 The most relevant policies are Policy 5 of the Structure Plan (Green Belt), Waste Policies 24 (Land raising), 41 (Surface water and groundwater resources), 42 (Floodwater protection and risk of flooding), and 46 (Restoration, aftercare and afteruse).
- 3.5 The material considerations raised by this application are:
- whether the development is appropriate within the Green Belt;
 - consideration of the development in the context of Waste Policy 24 (Land raising);
 - whether the proposal is an acceptable landform;
 - surface drainage from the proposed landform and impacts for the public highway;
- 3.6 Whether the development is appropriate within the Green Belt - Government Guidance is contained in Planning Policy Guidance Note 2 (Green Belts). Policy 5 of the County Structure Plan (Green Belt) mirrors the Guidance advice, which states that the making of material changes of use to the land is inappropriate development unless it maintains openness and does not conflict with the purposes of including land within the Green Belt. In the context of the wider landscape of the area the proposal would not compromise the openness of the Green Belt, particularly given the belt of mature trees on three sides. The disposal of inert waste is a temporary use of the land and a use that is already taking place at the site. Clearly this application would extend this temporary use, but given the scale of the activity it need not, of itself, conflict with Green Belt policy.
- 3.7 The Guidance does go on to state that where there is any large scale development (which includes the tipping of waste) it should, so far as possible contribute to the achievement of land use objectives for the use of land in Green Belts. There are six objectives for the use of land in the Green Belt and it is considered that the use of the Vicars Grove site during and after the proposed development is consistent with the following five objectives:
- to provide opportunities for access to the open countryside for the urban population;

- to provide opportunities for outdoor sport and outdoor recreation near urban areas;
- to retain attractive landscapes, and enhance landscapes near to where people live;
- to secure nature conservation interest; and
- to retain land in agricultural, forestry and related uses.

3.8 Consideration of the development in the context of Waste Policy 24 (Land raising) - In consideration of this proposed development Waste Policy 24 states that;

“ the disposal of waste by raising of the level of the land will only be permitted where...it can be demonstrated that it would not give rise to unacceptable environmental and other effects and it would result in significant...landscape enhancement or other environmental benefit and where the proposal can meet the environmental standards and planning requirements set out in operational policies 32-46”.

3.9 In principle, it is considered that the proposal would result in a significant environmental benefit arising from the development of landscaped woodland area that would allow public access for informal recreation. The proposal would also involve the management and enhancement of the important ecological features within the site, some of which would be lost if the site is restored in accordance with the approved restoration levels.

3.10 The two relevant effects that require assessment are the appropriateness of the landform in the local landscape and the surface water run off and drainage considerations.

3.11 Whether the proposal is an acceptable landform – The existing permission would restore the land back to its pre-extraction ground levels with a maximum height of 96 metres above ordnance datum (A.O.D). The proposed landform has a maximum height of 100 metres (A.O.D) which further increases the final gradients and the risk of surface water run off. This height is not uncommon in the general locality where heights of the surrounding area reach 147 metres (A.O.D) within a one and a half kilometres of the site. However, the proposed landform needs to be assessed within the context of the topography which immediately surrounds it and should satisfy the requirements of Waste Policy 46 which requires that:

“The final landform resulting from the proposed restoration should be one apparently created naturally and set harmoniously within the surrounding landscape.”

3.12 In order to minimise the visual impact of the proposal certain variations to the proposed landform should be secured and other appropriate conditions imposed. The restoration proposal as submitted seeks the retention of most of the surrounding soil mounds in order to protect their ecological interest. This approach is not wholly appropriate because:-

- only certain sections of the bunds have subsequently been identified as having ecological value, in particular the northern section containing the Aspen tree cover;

- where there is no significant ecological interest in the bunds they should be removed in order that the periphery of the proposed landform can be more naturally blended into the existing topography;
 - indigenous soils should be used where possible on the restored landform in order to reflect as far as possible those of the area;
 - soil banks should be minimised as far as possible so as discourage a rabbit population that could have a detrimental effect on tree establishment.
- 3.13 Prior to any approval therefore, a revised contour plan should be submitted in order to ensure that the proposed landform is acceptable. In any event, the landform should be no higher than 100 metres (A.O.D).
- 3.14 It has also been pointed out that the woodland surrounding the site needs not only protecting and managing because it is ancient woodland, but also because, if it were to be felled then the landform created by the proposal would be more apparent within the local landscape. In order therefore to protect the remnant ancient woodland and to ensure that the proposed landform is not exposed it would be necessary for the granting of any consent to have a legal obligation to retain and manage the existing woodland areas.
- 3.15 Surface drainage from the proposed landform and impacts for the public highway – Both the Environment Agency and the County Council as Highways Authority have expressed concerns that the proposed landform could create additional surface water run off that could lead to possible flooding, especially of the public highway. Although this revised application does indicate some drainage provision, this is currently insufficient to demonstrate that a satisfactory solution can be provided. The requirements for adequate surface water drainage is reinforced through Waste Local Plan Policies 41 (Surface water and groundwater resources) and 42 (Floodwater protection and risk of flooding). It is therefore necessary that the applicant submits a drainage scheme that is satisfactory to both the Environment Agency and the Highways Authority before the granting of any permission.
- 3.16 Counsel's advice has been sought on legal issues in respect of the Enforcement Notice. Counsel's advice is dealt with separately in a Part II report elsewhere in the Committees' Agenda for this meeting.

4 Conclusions

- 4.1 In this particular instance the proposal is not inappropriate within the Green Belt. The protection and management of the important ecology within the site, woodland planting and public access upon completion of infilling are uses acceptable within the Green Belt.
- 4.2 Consideration of Waste Local Plan Policy 24 states that land raising will only be permitted where it does not give rise to unacceptable environmental or other effects these include meeting the environmental standards in Waste Plan policies (32-46). In respect of this proposal the potential effects under consideration are surface water and land drainage and the form of restoration. These two issues still require further analysis

and amendment to ensure that they are acceptable. It should therefore be a requirement for the application to address these issues first before any permission is issued.

- 4.3 The development of a landscaped woodland area that would have public access meets the requirement of Waste Policy 24 which states that land raising proposals should also result, in this particular instance "*other environmental benefit*". The proposal could also secure the management and enhancement of the important ecological features within the site, some of which would be lost, if the site were restored in accordance with the permitted landfill working.
- 4.4 A revised plan would need to be drawn up so that the landform is blended into the surrounding topography and the gradients of the landfill do not result in drainage problems prior to the grant of any planning permission. The existing soil bunds that have little or no ecological value should be used in the restoration of the final landform
- 4.5 In conjunction with details of the revised landform, the surface water and drainage need to be designed to the satisfaction of the Environment Agency and the Highways Authority in order that flooding of the surrounding area and public highway does not occur as a result of the of the new landform.

5 Financial Implications

- 5.1 Planning applications should be determined on the basis of material planning considerations, and not on the basis of their financial implications for the County Council. However, it is a requirement of the County Council to advise all Committees and Sub-Committees of the financial implications that may arise from a decision of the Committee.
- 5.2 If a planning application is refused or is not determined within a specific period, the applicant has a right of appeal. Any appeal would result in additional costs, which in part can be met from existing budget provisions. However, a major public inquiry may give rise to significant costs for which there is no specific budget provision. If the County Council refuses an application without reasonable planning grounds on which to base its decision, it may be liable to pay the costs of the applicant in contesting the appeal.

Background material used by the author in compiling the report

Planning Application ref. 1/0869-00.

Consultation responses and representation received in response to Planning Application ref. 1/0869-00.

Planning Application ref. 1/0008-99 (Withdrawn).

Consultation responses and representation received in response to Planning Application ref. 1/0008-99 (Withdrawn).

Hertfordshire Structure Plan Review 1991-2011 (adopted April 1998).

Hertfordshire Waste Local Plan 1995-2005 (adopted January 1999).

North Hertfordshire District Plan 1996–2001 (April 1996).