

EAST HERTS DISTRICT

APPLICATION FOR REVIEW OF CONDITIONS OF EXISTING PLANNING PERMISSION FOR SAND AND GRAVEL EXTRACTION, RESTORATION AND CREATION OF COUNTRY PARK AT PANSHANGER QUARRY, NR.HERTFORD

Report of the Director of Environment

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Local Member: Bryan Hammond

1. Purpose of the report

To consider planning application 3/1219-99 for the review of conditions attached to an existing planning permission for sand and gravel extraction, restoration and creation of country park.

2. Summary

- 2.1 This application is for the determination of new of conditions as part of the Review of Mineral Planning Permissions at Panshanger Quarry and was accompanied by an Environmental Statement. The existing planning permission is for sand and gravel extraction, restoration and creation of a country park.
- 2.2 The Review of Mineral Planning Permissions (RoMPP) was introduced by the Environment Act 1995 and seeks to update permissions to reflect modern operating practices and environmental standards of today's society.
- 2.3 Planning permission for the extraction of sand and gravel, restoration and the creation of a country park was granted on 13 May 1980 by the then Secretary of State for the Environment following a 'call in' and a public inquiry. A legal agreement dated 12 January 1979 provides for the management of land at Panshanger Park for woodland and wildlife, nature conservation, study of flora, fauna, geology and geophysical features and creation of a country park. The legal agreement also provides that a management committee would be established to oversee these issues.
- 2.4 The main issues are;
- Panshanger is a Grade II* Listed Park;
 - the land is of notable interest for ecology; and
 - restoration is to include creation of a country park.

3. Conclusion(s)

- 3.1 The Director of Environment should be authorised to impose conditions for the following after taking into account environmental information;
- i) management of ecology in accordance with the environmental statement;
 - ii) working to take place in accordance with revised plan and according to the timetable set out in the Environmental Statement and mitigation identified within environmental statement to be carried out;
 - iii) landscaping;
 - iv) archaeology;
 - v) duration of working limited to 31 December 2030;
 - vi) noise management;
 - vii) dust management;
 - viii) design of lakes, river channels and associated structures;
 - ix) details of car-parking for the country park to be submitted and agreed;
 - x) restriction of hours of working;
 - xi) cleaning of vehicles;
 - xii) no materials to be imported in connection with restoration of the site;
 - xiii) site access (including maintenance);
 - xiv) bunding of fuel tanks;
 - xv) design and location of plant;
 - xvi) soil handling;
 - xvii) aftercare.
- 3.2 The Director of Environment should provide to the Spokespersons of the Development Control Committee an annual report detailing issues raised at the Management Committee.

1. Description of the site and proposed development

Location of site

- 1.1 Panshanger Park is situated in countryside between Hertford and Welwyn Garden City. The site covers approximately 400 hectares and includes agricultural land, woodland and the existing quarry.
- 1.2 The site extends from Thieves Lane, Hertford in the east to Panshanger Lane in the west. To the north the site is bounded by the B1000 Welwyn Road and in the south extends to The Old Coach Road. The A414 Cole Green Bypass was built after the grant of the planning permission for mineral extraction and dissects the site. Access to the land south of the A414 is via an underpass.
- 1.3 The River Mimram runs through the middle of the site and extensive wooded areas occupy the plateau above the valley sides.
- 1.4 The site is accessed by an estate road leading from Panshanger Lane. The sand and gravel processing plant is situated at the western end of the site adjacent to Poplar Grove. Current sand and gravel extraction areas are located on the plateau areas adjacent to the B1000 and within the river valley by Riverside Cottage.

Designations and development plan

- 1.5 Part of the site is a Grade II* Listed Park in recognition of its historic landscape value, with landscape design by Capability Brown and Humphrey Repton. The site is within the Green Belt and is designated as a Landscape Conservation Area in the adopted East Herts District Local Plan. The East Herts Local Plan also notes the presence of three 'Areas of Archaeological Interest' in land to the south of the A414 (mineral extraction is not proposed from two of these areas). The Local Plan also notes part of the site as being an 'Other Site of Ecological Interest'.

Planning history and legal agreement

- 1.6 Planning permission for sand and gravel extraction was permitted on 13 May 1980. The application was called in for a decision and a public inquiry was held during January and February 1979. The decision letter of the Secretary of State granting planning permission was dated 13 May 1980. A legal agreement dated 12 January 1979 provides for the management of land at Panshanger Park for woodland and wildlife, nature conservation, study of flora, fauna, geology and geophysical features and creation of a country park. The legal agreement also provides that a management committee would be established to oversee these issues.

Existing scheme

- 1.7 The existing permitted scheme allows for 5.5 million tonnes of sand and gravel to be extracted over an area of about 91 hectares (the total permission area is 400 hectares). Mineral extraction is already well advanced in this programme.

- 1.8 The site has two different types of sand and gravel deposit. Mineral from the plateau areas (sub-divided into areas denoted by letters) is blended with higher quality mineral from the river valley (sub-divided into areas denoted by numbers) to produce a more marketable product. Extraction is now taking place in areas 3 within the River Valley and D in the plateau area. Restoration has taken place in areas A and B in the plateau area and area 1 in the river valley.
- 1.9 Access to the site is off Panshanger Lane, which will continue to be the main access for the development. The restoration scheme does not require the importation of fill material to achieve the final landform. Extraction will continue whilst the conditions relating to the permission are reviewed.
- 1.10 The permitted scheme allows for further extraction in the valley and on the plateau areas to the north and south. The restoration scheme for the site includes lakes along the River Mimram, within the valley, open land suitable for recreation and restoration of large areas to agriculture, both for crops and grazing. Part of the park will be designated as a nature reserve, whilst other land including lakes, valley sides and retained woodland will become parkland.

Application and revisions

- 1.11 The initial submission under the RoMPP process has been subject to revision following initial consultations. The revised alternative scheme makes the following amendments to the extraction areas and restoration:
- extraction area boundaries have been significantly amended in the plateau areas B, C, D, and E. This allows for the retention of many ancient and mature trees and provides an increased buffer zone to the Stables complex and housing close to the Welwyn Road;
 - the lake areas to be dug have been amended to avoid ancient and mature trees, but the principle changes avoid digging sections of the River Mimram and adjacent areas;
 - changes to the working method also realign internal access roads so as to reduce impacts on Riverside Cottage, Evergreen Wood, the Chisel Shelf and Garden Wood;
 - the proposed landform for the northern plateau area has been amended so as to bring some areas to existing ground level. Elsewhere the land will have a more natural and varied landform than the original permitted scheme. The retention of the ancient trees and planting of woodland will assist in retaining and enhancing the character of the landscape. The access road to Panshanger Stables is to be retained on its original route;
 - a major extension on the southern plateau to the Chisel Shelf woodland is proposed together with significant extensions within Panshanger Park and Cole Green;
 - the amendments are designed to improve the ecology of the area. They would reinstate a section of high quality chalk stream, retain wet meadows and maintain the existing River Mimram and associated woodland;
 - much of the water flowing through the Broadwater Lakes would be diverted back into the river, thus aiding the recovery of the river ecology;

- the Broadwater Lakes have been amended to retain many of the ancient trees. The Broadwater is to be restored to original shape in order to maintain the important vista from the site of Panshanger house.

Environmental assessment

- 1.12 The non-technical summary of the Environmental Assessment and its revision are appended at Annex 1 of this report.

2. Consultations and representations

- 2.1 East Herts District Council: has no objection to the application.

- 2.2 Hertingfordbury Parish Council has no objections.

- 2.3 Tewin Parish Council has no objection to the proposal. They would not want to see any increase in current vehicle movements or loads per day.

- 2.4 The County Council as Highway Authority has no objection to the application.

- 2.5 The County Council as Archaeology Department makes the following comments:

- the site contains several known archaeological sites and the potential for the discovery of previously unknown sites is high;
- the archaeological evidence that the extraction programme is likely to affect ranges from late prehistoric and Roman settlement sites through to 18th and 19th century parkland features and structures.

- 2.6 Transco express concerns as a high-pressure gas main runs through the site.

- 2.7 Vivendi Water comment that part of the site is within a groundwater protection zone and extraction and operation should be carried out in accordance with British Standards and best management practices. Details of the retention and re-instatement of the River Mimram should be agreed with the Environment Agency.

- 2.8 Ministry of Agriculture, Fisheries and Food (now DEFRA) does not wish to object to the proposal, but would like the following agricultural consideration to be taken into account:

- the application contains 91ha of undisturbed land of which 62ha are in agricultural usage. Twenty-one hectares are considered to be “best and most versatile” agricultural land and restoration of this land should be to at least the same standard.

- 2.9 Environment Agency has no objection to the proposal providing that the following conditions are imposed:

- no development shall be commenced until a scheme for the detailed design of the proposed lakes, river channels and associated structures has been approved in writing by the LPA. The scheme shall indicate landscaping, planting, use and monitoring;

- suggest that an environmental clerk of works to be employed to supervise all operations regarding the diversion of the river channel and the restoration associated with the lakes.
- 2.10 The Highways Agency has no objections.
- 2.11 English Heritage revised comments are awaited and will be reported verbally to Committee.
- 2.12 The Garden History Society is pleased that the revisions include restoration of the upper end of the Broadwater and the retention of the alignment of the North Drive. They wish to see a historic landscape assessment and survey carried out and future management to take account of this.
- 2.13 Hertfordshire Gardens Trust – welcome the amended plans, particularly the restoration of the Upper Broadwater and the reduction in planting around its edges. They ask that a historic landscape character survey be undertaken.
- 2.14 English Nature has no objections to the application, as they believe that the alternative scheme represents a considerable improvement upon the original scheme.
- 2.15 Herts and Middlesex Badger Group have no objections to the application, provided that all necessary precautions are taken to ensure the safety of badgers on the site. An exclusion zone of at least 30 metres should be clearly marked around setts prior to work being undertaken near them.
- 2.16 Herts and Middlesex Wildlife Trust welcome the revised proposals, but have the following comments to make:
- the amendment to retain the two highly important ancient Pollards is welcomed however the surrounding area must be protected and backfilling would benefit the trees;
 - the revised restoration of the northern plateau increases the potential for ecological benefit;
 - the lakes should be screened and footpaths kept back to reduce disturbance to birds;
 - the re-routing of the River Mimram through the old channel is welcomed however the importance of water voles must be considered;
 - opportunities exist for the creation of features to encourage invertebrates;
- 2.17 Panshanger Community Group agrees with the revised restoration scheme but suggest that footpaths and bridleways should be placed onto the definitive map and a clear route for cyclists from Welwyn Garden City to Hertford is provided. They have concerns for the safety of the users of the A414 in terms of the reduced land level following restoration and also comment on limited car parking provision.
- 2.18 The Tewin Society would be concerned if the nature reserve on the original scheme is not provided. They also are concerned that the original timetable

has not been met and would want to see that a timetable imposed and enforced.

- 2.19 Hertford Civic Society has no objections to the proposed scheme of restoration. They wish to draw the attention of the Committee to the fact that the pressing need for the development stated by the applicants at the Public Inquiry has not been borne out and that serious sand and gravel extraction did not commence until 1998.
- 2.20 Friends of the Mimram ask that some walks are immediately made available to the public as the whole park was supposed to be opened to the public five years ago.
- 2.21 The Ramblers Association is concerned about a number of points regarding the application:
- footpath 51, Hertford is shown on a different route to its present line on the Master Plan. It would be preferable if the footpath could join the B1000 about 350m further west opposite the junction of Bridleway 11, Hertingfordbury. This would eliminate the needs for ramblers to walk along the verge of this busy road;
 - the plan shows a permissive route joining the road at this point. Permissive routes are not shown on the OS maps, so are only useful to local people who know the area, not people coming from outside of Hertford for a days walk in the country;
 - the Plan also shows a permissive route alongside the Mimram from Poplars Green to the tunnel under the A414. For reasons explained above, this footpath should be made statutory, not permissive. It would also be logical to extend the statutory footpath between Mill Farm and the tunnel under the A414 along the valley to Poplars Green, to provide a chain of statutory path along the Mimram;
 - if cyclists are allowed to use the path, could separate paths be provided for them as public footpaths are no place for cyclists.
- 2.22 Hertfordshire RIGS Group has no objection to the application.
- 2.23 Forestry Commission comments that the haul road may have an adverse effect on the adjacent woodland.
- 2.24 British Pipeline Agency, Civil Aviation Authority and National Air Traffic Services have no objection to the proposal.
- 2.25 A total of 85 properties were consulted and 10 letters of representation have been received. The main issues are:
- length of operation (until 2030) - people want to enjoy the countryside now;
 - noise and dust pollution;
 - loss of amenity;
 - increase in traffic due to lorry movements.

3 Planning Considerations

- 3.1 The application is for the determination of new conditions as part of the Review of Mineral Planning Permissions in accordance with the provisions of the Environment Act 1995. The Review process was introduced to up-date mineral planning permissions which have a long life and recognises that both the operations that take place, and the environmental standards of society have changed over this period.
- 3.2 Minerals Planning Guidance Note 14 Environment Act 1995: Review of Mineral Planning Permissions provides guidance for authorities on determining new conditions. The guidance provides that a distinction should be drawn between those conditions which deal with environmental and amenity aspects of working the site and conditions that would fundamentally affect the economic structure of the operation. Conditions that would adversely affect the amount of or rate at which mineral could be worked may attract compensation provisions within the legislation.
- 3.3 The applicant proposes that 23 new conditions are imposed and the County Council has to determine whether these conditions are appropriate or whether other conditions (either different and/or additional) should be imposed.
- 3.4 The application is accompanied by an Environmental Statement. The Environmental Statement is submitted on a 'voluntary' basis. This is because the relevant legislation, the Town and Country Planning (Environmental Impact Assessment) England & Wales 1999, which the UK passed to implement the European Directive on Environmental Assessment did not cover decisions on determination of new conditions as part of the minerals review. A case in North Yorkshire established that decisions on new conditions should be subject to Environmental Assessment as part of the Minerals Review. The Government passed new legislation in the form of the Town and Country Planning (Environmental Impact Assessment) England & Wales 2000, to cover this ruling but the legislation does not apply retrospectively. The Committee should therefore take account of environmental information in reaching their decision on this application.
- 3.5 The existing Legal Agreements at Panshanger provide for the management of the site in consideration of its interests in terms of nature conservation, ecology and geology and for the creation of a country park. The Legal Agreements establish a Management Committee to oversee these matters. The Management Committee has a formal constitution and has a core membership of two members of the operating company, two members of the Herts and Middlesex Wildlife Trust and two officers of the County Council. In addition to any planning conditions, the operation of the site is also overseen by this Committee which meets on a regular basis. The future management of the site, including that of the country park, is discussed at these meetings.
- 3.6 The existing approved extraction and restoration scheme at Panshanger Park has been revised following negotiations with Herts and Middlesex Wildlife Trust and the County Council. A revised scheme was then submitted that provided

improvements in terms of ecology as set out in paragraph 1.11. Following consultation and comments on the revised scheme from English Heritage, Garden History Society, and Hertfordshire Gardens Trust, the proposal was further revised. The revision allows for restoration of the northern end of the Broadwater to its original shape to maintain the vista from the site of Panshanger House, an important element of Humphrey Repton's landscape design. Also, the route of the northern drive is to be retained (sterilising the mineral beneath its route) and the adjoining area to the west restored to original levels. These changes to restoration to original levels will use overburden from the quarry workings.

- 3.7 Ecology – The Environmental Statement provides information on the ecological value of the site and the impacts that the sand and gravel workings would have. Further, the Environmental Statement provides how mitigation of these impacts is achieved through the design of the workings and their restoration. Conditions should be imposed to ensure that the mitigation provided in the Environmental Statement is carried out.
- 3.8 Landscape – Part of Panshanger Quarry is designated as a Grade II* Listed Park and this designation places the Park in the top 40% of parks in the UK. The design of the workings has been amended to take account of the views of English Heritage, The Garden History Society, and Hertfordshire Gardens Trust. The company is also carrying out a historic landscape assessment of the site. There is competition between conserving ecological and landscape interests at Panshanger and the current design takes account of both these interests. Conditions should be imposed to ensure that working and restoration takes place in accordance with the revised provisions.
- 3.9 Country Park / Public Access – A country park is to be created following restoration of the quarry workings and the proposed restoration scheme provides for a network of footpaths and bridleways throughout the application area, linking to footpaths and bridleways that adjoin the site. Two car parks are to be provided for visitors: the existing public car park, off Thieves Lane, Hertford and a further car park adjoining the Panshanger Stable block. The country park is intended to provide low key public access. The footpaths and bridleways will use management features such as ditches and embankments to encourage people to keep to the prescribed routes as shown on the restoration plan. Picnic points, interpretation boards and view-points will be provided as part of the country park. This form of access is intended to maintain the ecological importance of the Panshanger Estate and the landscape tranquillity. The footpaths and bridleways will be opened once restoration has taken place. Allowing public access early would need to be balanced against safety issues arising from an operational quarry.
- 3.10 Archaeology – The site is likely to contain areas of archaeological interest. A full modern condition in accordance with Planning Policy Guidance Note 16 – Planning and Archaeology should be imposed.
- 3.11 Duration of working and completion of restoration – The applicant proposes a completion date of 31 December 2030 (currently the limitation is until 2042).

Further restriction may be likely to attract compensation. The applicant has, in re-designing the working scheme to reduce landscape impact at the Broadwater, given up significant sand and gravel reserves. Further restrictions on the duration of working, or the rate of working, may be likely to affect the asset value of the site and so attract compensation provisions. A condition should be imposed limiting the duration of working and achievement of restoration to the 31 December 2030.

- 3.12 Vehicle movements – The County Council as Highway Authority has no objections to the application. The restriction of vehicle movements at the site would be a restriction on the rate at which minerals could be extracted and as such would affect the asset value of the site and so attract compensation. The timetable as set out in the working scheme does provide some regulation of the overall number of vehicle movements. No further condition should be imposed in this respect.
- 3.13 Noise – The workings are generally remote from noise sensitive property. However, at Birch Green, workings do come closer to residential homes. A condition should be imposed limiting noise in accordance with Mineral Planning Guidance Note 11 – The Control of Noise at Surface Mineral Workings.
- 3.14 Dust – The site is generally remote from residential property. A condition should be imposed requiring best practice methods for minimisation of dust to be employed at the site.
- 3.15 Utilities – A high-pressure gas main and a trunk sewer pass through the site, however, the working areas have been designed to avoid them. Crossing points have been specially constructed to protect the pipework.
- 3.16 River diversion and lake creation – The revised scheme provides for the re-creation of the chalk stream at the site prior to landscaping. The Environment Agency has agreed a detailed specification for the creation and management of the chalk stream that ensures hydrological issues and ecology are balanced. The restoration of the site also involves the creation of lakes. The lakes need to be constructed carefully in order to provide the best conditions for the future ecology of these potential resources. Conditions should be imposed to ensure the chalk stream is created and maintained in accordance with the Environment Agency's specification. A condition should also be imposed to ensure the lakes are restored in accordance with details to be submitted and agreed with the County Council.
- 3.17 Hours of operation – A condition should be imposed to limit hours of working to the following times:-
07:00 – 18:00 Monday to Friday
07:00 – 13:00 Saturday
- 3.18 Further conditions should be imposed as follows:- to ensure cleaning of vehicles leaving the site, no materials to be imported in connection with

restoration of the site, maintenance of the site access, bunding of fuel tanks, design and location of plant, soil handling, and aftercare.

4. Conclusions

- 4.1 This application is for the determination of new of conditions as part of the Review of Mineral Planning Permissions at Panshanger Quarry and was accompanied by an Environmental Statement. The existing planning permission is for sand and gravel extraction, restoration and creation of a country park.
- 4.2 The Review of Mineral Planning Permissions (RoMPP) was introduced by the Environment Act 1995 and seeks to update permissions to reflect modern operating practices and environmental standards of today's society.
- 4.3 The report concludes that the Director of Environment should be authorised to impose conditions for the following after taking into account environmental information;
- i) management of ecology in accordance with the environmental statement;
 - ii) working to take place in accordance with revised plan and according to the timetable set out in the Environmental Statement and mitigation identified within environmental statement to be carried out;
 - iii) landscaping;
 - iv) archaeology;
 - v) duration of working limited to 31 December 2030;
 - vi) noise management;
 - vii) dust management;
 - viii) design of lakes, river channels and associated structures;
 - ix) details of car-parking for the country park to be submitted and agreed;
 - x) restriction of hours of working;
 - xi) cleaning of vehicles;
 - xii) no materials to be imported in connection with restoration of the site;
 - xiii) site access (including maintenance);
 - xiv) bunding of fuel tanks;
 - xv) design and location of plant;
 - xvi) soil handling;
 - xvii) aftercare.
- 4.4 The Director of Environment should provide to the Spokespersons of the Development Control Committee an annual report detailing issues raised at the Management Committee.

5 Financial implications

- 5.1 It is not considered that any of the amendments to be made to the submitted schedule of conditions would constitute a restriction of working rights, and

therefore both the economic viability or operating the site or the asset value of the site will not be affected. A notice of this effect will be issued with the notice of determination of the application. However, the applicant could choose to appeal against this determination to the Secretary of State.

Background information used by the author in compiling this report

Application for determination of new conditions reference 3/1519-99, and accompanying Environmental Statement, revised Environmental Statement and revised restoration plan August 2002

Consultation responses and representations received in response to application ref. 3/1519-99

Hertfordshire County Structure Plan Review 1991-2011

East Herts District Local Plan, adopted 1999