

EAST HERTFORDSHIRE DISTRICT

**APPLICATION FOR VARIATION OF CONDITION 21 OF IDO PERMISSION
REF NO 3/1387-92 TO ALLOW THE RETENTION AND SCREENING OF
COMPOSTING MATERIAL AND SCREENING OF IMPORTED MATERIAL
FOR TOPSOIL, BOTH IN ASSOCIATION WITH RESTORATION OF LAND
AT BEDWELL PARK QUARRY, BEDWELL AVENUE, ESSENDON**

Report of the Director of Environment

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Local Member:- B Hammond

Adjoining Member:- W Storey

1. Purpose of Report

To consider planning application Ref. No. 3/1935-03 for the variation of condition 21 of the IDO permission ref No. 3/1387-92 to allow the retention and screening of composting material and screening of imported material for topsoil, both in association with the restoration of land at Bedwell Park Quarry.

2. Summary

2.1 Condition 21 attached to the IDO registration/planning permission states that:

“No materials from sources outside the site shall be imported for processing, storage and/or distribution”

2.2 This partially retrospective application proposes the change of use of an area of land at the site to enable the retention and subsequent screening of composting material and screening of imported material for topsoil, with both materials to be used in association with the restoration of the site. With regards to the composting, the application relates to material that was created during an earlier composting trial in 2002/03. No further material for composting would be imported without the approval of the County Council.

2.3 Letters have been received from Little Berkhamsted Parish Council, Essendon Parish Council and 4 local residents, objecting to the proposals. The principle concerns are that the composting trial was not carried out as agreed, that the trial resulted in odour nuisance and that any further composting would give rise to additional odour nuisance.

2.4 The main issues in considering this application are:

- impact on the Green Belt;
- impact on the local landscape;
- whether the proposals will assist or hinder the progress and/or quality of restoration work at Bedwell Park Quarry;
- any alternative means of addressing the issues raised;
- impact on local amenity;
- impact on the local environment.

3. Conclusion

3.1 It is considered that the proposal would assist the timely restoration of the site without undue adverse impact, provided appropriate conditions are imposed. It is therefore, concluded that the Director of Environment should be authorised to grant planning permission, subject to conditions to include:

- i) no additional compost-forming material shall be imported into the site;
- ii) no materials including brick, concrete, soils and screened compost, shall be exported from the site;
- iii) no composting or soil screening operations shall be carried out until a detailed method of working for the composting operation has been submitted to and approved in writing by the Mineral Planning Authority, such scheme to include measures to control odour and protect the nature conservation area;
- iv) no composting or soil screening operations shall be carried out until a revised scheme of working and restoration for the site has been submitted to and approved by the Mineral Planning Authority;
- v) no secondary treatment by crushing or screening of arisings from the operations or crushing of any materials;
- vi) the composting and soil screening operations should be time limited to include the restoration of Area C no later than 31 October 2004, Area D by 31 October 2005, the phased removal of the eastern perimeter bund and restoration of land in Areas A, B and C no later than 31 October 2005, the phased removal of the chalk stockpile in Area 1a and an interim timetable for the completion of landfilling and restoration in the remaining areas and the arrangements for the later submission of a detailed timetable for these areas;
- vii) all other relevant conditions attached to planning permission ref3/1387-92.

1. Description of the site and proposed development

- 1.1 The site is located approximately 3.5 kilometres west of Hertford, 0.5 kilometre east of Essendon and 0.5 kilometre south of the B158 Lower Hatfield Road. Access to the site is via Bedwell Avenue at its junction with the B158 Lower Hatfield Road. The site is located within the Green Belt and in a Landscape Conservation Area. The site is bounded to the east by Howe Green Lane (which is also identified as bridleway Little Berkhamsted 18) and to the west by the bridleway Little Berkhamsted 26 and an adjacent watercourse. Public Footpaths Little Berkhamsted 1 and Little Berkhamsted 2 are located to the north and south of the site respectively with the latter forming the southern boundary of the site. The western boundary also forms part of the East Herts / Welwyn Hatfield District boundary and part of the eastern boundary of an adjacent golf course. There are a number of residential properties in the vicinity of the site, including two located on Bedwell Avenue and several located at Howe Green, including five in the immediate vicinity of the site along Howe Green Lane.
- 1.2 Condition 21 of the IDO planning permission Ref. 3/1387-92 requires that no materials from sources outside the site shall be imported for processing, storage and/or distribution. This application seeks to vary the condition for two reasons: firstly, to allow the retention, screening and use of existing composting material that is already stockpiled on site from an earlier composting trial, to be used on site as restoration material; and secondly, to allow the screening of imported material to generate additional topsoil for use in the restoration of the site.
- 1.3 The earlier composting trial involved the mixing of imported sewage sludge with screened or chipped 'green' or wood waste to produce a compost material that would aid the restoration of the site. The trial commenced in September 2002 and ended in January 2003, following action by the County Council in response to concerns about the operations, including specific complaints from local residents about odour. On 27 January 2003, the County Council required that all except a maximum of 1,000 cu metres of compost should be removed from the site, with the retention of the remainder to be kept under review, in case of further complaints about odour being received. Subsequent to this, some compost material was removed from the site although not at the rate required by the County Council, such that by March 2003, an estimated 3,000-4,000 cu metres of material remained on site. As a result, Breach of Condition Notices were served in April 2003.
- 1.4 The current application seeks to secure planning approval for an alternative means of addressing the County Council's concerns about the composting operation whilst also addressing the overall shortage of topsoil on the site. The compost material has therefore, been retained on site in two stockpiles or 'windrows' and these have remained largely unaltered since March 2003, pending the outcome of the application.

- 1.5 The application seeks to restart the composting process and once composting is completed, to allow for this material to be screened to create a soil-improver for use solely in association with the phased restoration of the quarry. Inert arisings from the screening process would be deposited in the landfill void and no material would be exported from the site other than a small proportion of mainly non-inert waste arisings such as plastics, metals and other waste materials that are not permitted to be landfilled at the site.
- 1.6 The application proposes that unless otherwise agreed with the County Council, there would be no further importation of composting material or composting activity on the site other than that associated with the treatment of the existing compost stockpiles.
- 1.7 There is currently a deficiency of topsoil on site to enable the completion of restoration on the remaining excavated and filled areas. In July 2003, the applicant estimated that the overall topsoil requirement for the quarry restoration would be in the region of 15,600 cu metres. The applicant also calculated that the total amount of topsoil available on site at that time amounted to approximately 9,000 cu metres, comprising material stockpiled in perimeter screenbunds and other stockpiles within the site, leaving a net shortfall of approximately 6,600 cu metres of topsoil to provide for the restoration of the remainder of the site.
- 1.8 In order to address this shortfall, the applicant proposes to selectively use suitable topsoil or topsoil-making material that is imported into the site as part of the permitted landfilling operation, to augment the existing available soils, thus assisting the restoration of the quarry.
- 1.9 In respect of both operations, the plant to be used would comprise one mobile screen and one mechanical shovel, to be located in Area D. The screening of material for topsoil would be linked to the process of extraction and landfill and the location of the plant would vary depending upon the area being restored and the need for the topsoil for that particular area.

2. Consultations

- 2.1 East Herts District Council does not object to the proposals in principle and suggests that further conditions are attached to control the development and to ensure progress of extraction and restoration at the site.
- 2.2 Little Berkhamsted Parish Council and Essendon Parish Council both object to the composting proposals and have reservations about the proposed soil screening. The Parish Councils are concerned about the risk of further odour problems that could affect local residents if the compost is again disturbed and consider that the compost material

should be removed from the site. The Parish Councils acknowledge that this may result in some further odour but advise that local residents would be prepared to accept this on a short-term basis rather than have a protracted problem if the compost is used on a piecemeal basis as restoration proceeds. The Parish Councils accept that there is a shortfall of topsoil for restoration at the site and that soil screening might be reasonable, provided that none is exported from the site. The Parish Councils are especially concerned to prevent the commencement of a recycling operation where this has previously been refused permission.

- 2.3 The Environment Agency does not object to the proposals although it does express concern in respect of the control of odour.
- 2.4 HCC as Highway Authority does not object to the proposals on the understanding that the increase in traffic would be insignificant and that the total number of lorry movements would not exceed the current limit.
- 2.5 The Herts and Middlesex Wildlife Trust does not object to the proposals and requests that conditions are put in place to ensure that the Bedwell Chalk Quarry Wildlife Site is protected against the risk of contamination from the composted materials.
- 2.6 The Hertfordshire Biological Records Centre does not object to the proposals but recommends that conditions are put in place to ensure the monitoring and control of run-off and leaching from the compost.
- 2.7 Transco does not object to the proposals.
- 2.8 Thames Water does not object to the proposals.
- 2.9 A total of 10 properties were consulted on the application and a total of 4 letters were received objecting and expressing concerns about the proposals. The main issues of concern can be summarised as follows:
 - that the trial as carried out in 2002/03 was not carried out or monitored in accordance with the details that had been agreed;
 - that the trial caused considerable odour nuisance to local residents;
 - that the compost material should have been removed from the site as originally required by HCC and the Environment Agency in 2003;
 - that any re-commencement of composting operations would be likely to result in further odour nuisance;
 - that any re-commencement of composting operations would be difficult to monitor and enforce.
- 2.10 Further concerns have also been expressed by some of those responding that the shortage of topsoil should not have occurred in the first place and that there will be additional impact of further lorry movements. Some representations also expressed the view that

residents would be prepared to tolerate any short-term odour nuisance caused by the immediate removal of the compost material from the site, in the interests of avoiding a possible longer-term nuisance.

3. Planning Considerations

3.1 The principal issues to be taken into account in determining this application are:-

- impact on the Green Belt;
- impact on the local landscape, particularly in respect of dust and visual intrusion;
- whether the proposals will assist or hinder the progress and/or quality of restoration work at Bedwell Park Quarry;
- any alternative means of addressing the issues raised by this application;
- impact on local amenity, particularly in respect of odour, noise and dust;
- impact on the local environment, including the ecology of the Wildlife Site, in respect of contamination and dust.

3.2 Green Belt. An Interim Development Order (IDO) Permission for the extraction of sand and gravel and the extraction of chalk was granted in 1948 in respect of land at Bedwell Park Quarry. The IDO permission was subsequently registered on 16 March 1992 under the Planning and Compensation Act 1991 (planning permission Ref No. 3/1387-92). Revised conditions were subsequently attached to the IDO permission by the Secretary of State in 1995.

3.3 The site is within the Green Belt and a Landscape Conservation Area. With regard to the impact on the Green Belt and whether very special circumstances exist which would justify allowing the development to proceed, the proposals seek to aid the restoration of a mineral site and not the establishment of a recycling operation. The relevant policies of the Hertfordshire Minerals Local Plan are:

Policy 26 (landfill), which states inter-alia that *“sufficient resources must be made available for site preparation, reinstatement and restoration”*.

Policy 27, which states inter-alia that *“The County Council will not allow land worked for minerals to become derelict or remain out of beneficial use for longer than is absolutely necessary”*.

Policy 28, which states inter-alia that *“The County Council will normally require that restoration is carried out progressively behind the workings”*.

3.4 Subject to the preparation of satisfactory working details, the proposed composting and soil screening operation would be consistent with the

objectives of Policies 27 and 28 in progressively bringing land back into beneficial use. The proposal for soil screening also accords with Policy 26 where it would assist in meeting the objective of ensuring that sufficient soil resources are made available for the completion of restoration at the site. Given the temporary nature of the proposals and the nature of the operations, which are similar to those associated with quarrying and landfill operations and will contribute to the beneficial restoration of the site, it is considered that the proposals would not result in significant harm to the Green Belt.

- 3.5 Landscape / Visual Impact. The proposals may have some visual impact on the local landscape where, depending on the formation of any screen bunds, the operations may be visible from time to time from parts of the Rights-of-Way network and adjoining land, including land to the south and west of the site. Dust may also be generated and be visible from adjoining land. However, any such impacts should be limited in extent and duration and may, in practice, be relatively indistinguishable from the normal operation of the quarry and landfill. Any such impacts are capable of being mitigated through the imposition of conditions.

Restoration Issues.

- 3.6 **Restoration Programme:** The IDO permission requires that the entire development shall cease no later than 2042. Under the existing approved scheme of working for the site, the next phase that should be restored is Area C, followed by Area D. Infilling has been completed in both phases with Area C being where the existing compost and new soil stockpiles are located. Area D is the proposed location for the screening operation. The applicant has not indicated a timescale for these operations although it is considered that Area C should be restored during the summer of 2004 with Area D to follow no later than summer 2005. It is more difficult to put a timescale on the restoration of the remainder of the site, comprising the remaining void in Area 2 (chalk extraction area), the remainder of Area 3 (adjacent to the site office and weighbridge) and the chalk stockpile Area 1a.
- 3.7 The proposals have been submitted on the basis that they would assist the restoration of the site. In terms of the composting, with proper working practices including site supervision and control, this may produce a 'soil-improver' that could be beneficial to the establishment of a productive soil layer and thus assist the re-establishment of a productive crop on the land. The use of sewage sludge of the type as imported into the site under the earlier trial is common as a means of providing organic fertiliser on agricultural land although it is not common practice to first combine this material with composted material. In order for this approach to succeed therefore, the methodology of the composting operation must be carefully designed and implemented so as to produce a product of an appropriate quality that is suitable for its purpose.

- 3.8 The application contains an outline methodology but not of sufficient detail to fully demonstrate how this would be achieved. Previous experience with the use of compost at this site (though not including a sewage sludge component), has proved problematic with quantities of oversized timber fragments and small fragments of non-organic debris (including plastics and metal), that were mixed with the raw material, being spread on the land. This debris proved difficult to remove by hand and is still evident on the surface of some previously restored areas. Any further composting operation must therefore, be capable of ensuring that these difficulties do not occur again. This concern can be addressed by the imposition of a condition requiring the submission of a detailed scheme of working prior to the commencement of the development.
- 3.9 With regard to the soil screening, it is now estimated that around 5.5ha of land requires restoration before the expiration of the planning permission in 2042. Condition 62 of the registered IDO permission requires that a final layer of at least 300mm depth is provided. It has been estimated that there is a net shortfall of approximately 6,600-7,500m³ for the completion of the remainder.
- 3.10 This shortfall in soils is due to the historic loss of soils from the site. Though unfortunate, this is not uncommon on older sites such as here where good practice in soil conservation was not well established. It must be accepted therefore, that this shortfall exists and further, that it must be addressed in order to ensure that the remaining un-restored areas may be satisfactorily restored. The importation of sufficient suitable soils can be carried out within the terms of the current planning conditions. With phased restoration, it is likely that the areas to be restored at any one time would be relatively small, amounting to around 0.5-1.0ha on each occasion. At the present time, there is scope to secure the restoration of an estimated 0.5-1.0 ha of additional land, over and above that already restored. It is considered that this could be achieved within the next one to two years with further areas being restored at intervals thereafter. The issue therefore, is how to ensure that sufficient soils of an appropriate quality can be made available to enable the timely progress of restoration across the site as and when the need arises and in particular, whether the screening of imported material will assist in this process.
- 3.11 Additional soil or soil-forming material has been imported into the site since July 2003 and it follows that the current shortfall for the site is now likely to have reduced although the applicant has not submitted any revised figures to demonstrate this. Given the size of existing soil stockpiles on site, there should not now be any immediate need to import further soil materials for the restoration of the next one or two phases although this can be expected to arise in later phases.

Alternatives.

- 3.12 In determining the application, regard should be given to the possible alternative means of securing the necessary resolution of the composting and soil issues. The alternatives to the applicants proposed approach can be summarised as follows:
- to treat the restored areas solely by means of the use of conventional agricultural fertilisers or treatments. This could include the application of sewage sludge products;
 - to make good the shortfall in soil by importing only 'clean' topsoil or;
 - to make good the shortfall in topsoil by allowing the placement of topsoil containing a limited element of debris that would then be removed by hand or machine after spreading of the soil on the land.
- 3.13 The use of compost cannot be regarded as essential to the successful restoration of the site although, provided that the compost is of the required standard, its use could be beneficial as a soil-improver. The practical alternative solution to that proposed would be to require the removal of all the stockpiled compost material from the site. This would result in additional lorry movements although this could be undertaken within the total number allowed under the current planning permission. There would also be a risk of odour nuisance arising during the carrying out of this operation although objectors have indicated that they would be prepared to accept this short-term inconvenience. This approach is likely only to be achievable through enforcement action, which could be subject to appeal and therefore, likely to delay a satisfactory resolution of the present situation.
- 3.14 Of the two alternative means of augmenting the available soils identified above, the first is achievable although it may take longer to import suitable materials, whilst the second places more reliance on careful site clearance after the soils have been spread on the land.
- 3.15 It follows therefore, that any of the above alternatives may be workable at a practical level although past experience of the removal of litter or debris following soil placement has shown that this approach in particular, can be problematic in terms of both practical execution and enforcement.
- 3.16 Perimeter Screenbund. A further issue has previously been raised with the operator in relation to commencing the phased removal of the perimeter screen bund as working and restoration proceeds towards the southern end of the site. This could bring about the substantial completion of restoration over a large part of the site although care would be required in order to ensure that the phased removal of the bund does not result in an increased nuisance being caused to nearby residents, particularly in respect of noise. This issue could be addressed through consideration of the current application.

Environmental Effects

- 3.17 **Odour:** The 2002/03 composting trial resulted in the County Council receiving a series of complaints from local residents about odour. Investigations and subsequent site monitoring by officers at the time found that these complaints were justified, resulting in the action taken by the County Council in 2003. Accordingly, if the re-commencement of composting is permitted at the site, it would be essential to ensure that the issue of odour can be controlled.
- 3.18 **Noise:** The operation would generate noise due to the operation of mobile plant, comprising one mobile screen and one loading shovel and possibly, one 360 degree excavator. This would be the same type of plant that is used in the existing permitted operations, and should not result in any additional adverse impact.
- 3.19 **Dust:** The operation of mobile plant may also generate dust. Again, this would be similar to other plant used on the site and should not result in any additional adverse impact.
- 3.20 **Impact on Nature Conservation Area:** Concern has been expressed that the composting operation may give rise to the risk of contamination of the conservation area by the run-off or leaching of nutrients from the adjacent areas, thus adversely affecting the ecology of the conservation area.
- 3.21 The above issues should be acknowledged and are capable of being controlled, provided that the operations are carried out in accordance with best practice. This could include a suitably detailed working scheme that incorporates appropriate control measures, including restricting the operations to a clearly defined and appropriately bunded working area. It is considered that odour, noise, dust and the risk of contamination can be controlled by the imposition of appropriate planning conditions although this will have implications for the County Council in site monitoring and possibly, enforcement.
- 3.22 **Impact of HGV Movements:** Concern has been expressed about the likely impact of the proposals on local residents arising from additional lorry movements although this does not reflect the proposals as described in the application. First, the applicant is seeking retrospective permission to retain existing composting material that has already been imported onto the site and is not proposing to import any additional compost material without the agreement of the County Council. Second, the selective screening of imported material for topsoil should not result in any significant increase in lorry movements above those ordinarily associated with the operation of the existing permitted landfill and should not result in any increase above that which is already permitted within the limits imposed under the current planning permission. HCC as Highway Authority does not object to the proposals.

- 3.23 **Rights-of-Way:** The proposals do not directly affect the local Rights-of-Way network although the operations may be visible and/or audible from time to time from parts of Bridleway Little Berkhamsted 26 and Footpath Little Berkhamsted 2. Any such impacts should be limited in extent and duration and may in practice, be relatively indistinguishable from the normal operation of the quarry and landfill. Any such impacts are capable of being mitigated through the imposition of conditions.

Other Matters

- 3.24 Concern has been expressed in response to this application, that the production of a screened compost and soil at the site could produce products that could be sold on the open market. This would if it occurred, amount to 'recycling' which is an inappropriate use in the Green Belt, a use for which planning permission has previously been refused at this site. The prevention of any such recycling at the site can be addressed through the imposition of appropriate planning conditions to prohibit the export of these materials from the site although this could place a burden on the County Council in respect of monitoring and enforcement.
- 3.25 Concerns have also been raised in respect of the operators compliance with the conditions attached to the IDO permission where the site has previously given rise to complaints and indeed, has had a long history of enforcement and non-compliance with various conditions. At the present time, compliance issues remain in relation to a number of matters. These include: the location and height of stockpiles; the submission of annual reports for 2001/02 and 2002/03 and the submission of a comprehensive restoration programme or timetable to accompany the approved scheme of working. These matters are currently being pursued.

4. Conclusions

- 4.1 The proposals are concerned solely with assisting the restoration of land at Bedwell Park Quarry and do not include recycling. The proposals provide the basis for assisting the satisfactory progress of restoration at the site and the resolution of the difficulties raised by the composting trial. The proposals are not contrary to the Development Plan and assist in meeting the policy objectives of the Hertfordshire Minerals Local Plan.
- 4.2 However, in the light of past experience, it is also concluded that unless significant improvements are made to the method of operation as previously employed on the site, there is a risk that the proposals could also give rise to further odour nuisance to local residents. The proposals could also result in the spreading of unsuitable compost material containing debris on the restored land and could give rise to the commencement of a recycling operation, which is contrary to planning policy.

4.3 In consideration of the balance of the above issues and subject to the Secretary of State not wishing to intervene, it is concluded that the Director of Environment should be authorised to grant planning permission for the variation of condition 21 of the IDO permission 3/1387-92, subject to conditions, to allow the retention and screening of composting material and screening of imported material for topsoil, both in association with restoration of land at Bedwell Park Quarry, because it will assist in the timely restoration of the site. It is further concluded that conditions should be attached to ensure the following:

- That no additional compost or compost-forming material shall be imported into the site;
- That no materials that are permitted to be landfilled or used in restoration works at the site, shall be exported from the site;
- That no composting, compost screening or soil screening operations shall be carried out at the site until a detailed method of working for the composting and soil screening operations have been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include provision for the production of sufficient materials as are required to complete one annual phase of restoration. The scheme shall also include measures for the control of odour and shall exclude the further treatment by re-screening or crushing of any arisings;
- that no crushing or other processing operations shall be carried out at the site for any purpose;
- that no composting, compost screening or soil screening operations shall be carried out at the site until a revised scheme of working and restoration for the site has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include inter-alia:
 - the completion of restoration in Areas C no later than 31 October 2004 and in Area D by 31 October 2005;
 - the phased removal of the eastern perimeter bund and restoration of land in Areas A, B and C no later than 31 October 2005;
 - the phased removal of the chalk stockpile in Area 1a; and
 - an interim timetable for the completion of landfilling and restoration in the remaining areas and the arrangements for the later submission of a detailed timetable for these areas;

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 of the financial implications that may arise from their decisions.

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 information used by the author in compiling this report

Planning application reference 3/1935-03 and accompanying plans.
Consultation responses and representations received in response to planning application ref. 3/1935-03
Hertfordshire County Structure Plan Review 1991-2011
East Hertfordshire Local Plan 1986-2001, adopted December 1999
East Herts Second Review, Second Review, December 2000
Hertfordshire Minerals Local Plan 1991 –2006 Adopted July 1998
and
Hertfordshire Waste Local Plan 1995-2005, Adopted January 1999
Planning Policy Guidance Note No 2 (PPG2)