

EAST HERTS DISTRICT

**APPLICATION TO VARY CONDITIONS 1, 2 AND 3 (TIME LIMITS) OF
PLANNING PERMISSION 3/2275-01 AT HOLLINGSON MEADS QUARRY,
NEAR GILSTON.**

Report of the Director of Environment

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Local Member: Tony Dodd
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1. Purpose of Report

To consider planning application ref. 3/2190-03 for variation of conditions 1, 2 and 3 (time limits for infilling, restoration and planting) of Planning Permission 3/2461-02 at Hollingson Meads Quarry, near Gilston.

2. Summary

- 2.1 This application seeks to extend the time limits for infilling, restoration and planting by approximately 1 year each. The time limit for infilling would be extended from 30th November 2003 to 30th November 2004, the limit for soil placement and restoration would be extended from 31st August 2004 until 30th September 2005, and the limit for planting would be extended from 31st December 2004 to 31st December 2005. The reason cited for the application is the ongoing lack of available inert material.
- 2.2 Hollingson Meads Quarry forms one half of an extensive sand and gravel quarrying site alongside the River Stort Navigation near Gilston, the other half being Pole Hole Quarry. Relatively little of the original reserve remains and parts of the quarry have already been restored.
- 2.3 Permission for infilling with inert waste was originally granted in 1994 to run until August 1997. When this permission expired, a new one was granted, the time limit for which was subsequently extended twice by variation of condition permissions. The most recent such permission (3/2461-02) was granted by the Development Control Committee in February 2003, when it was advised that any further applications for an extension of time would be unlikely to receive favourable consideration.

- 2.4 When digitised earlier this year, a survey submitted by the applicants in November 2003 showed that part of the application site had been overtipped by between 1-4 metres. Volumetric calculations undertaken in March 2004 showed that the void could have been filled to approved levels with the material that already existed on site; no further importation of waste was necessary to achieve the approved landform. Concern has also been raised more recently as to the quality of the restoration that has taken place although further testing will be required to substantiate this claim. Negotiations to secure remedial action have so far proved ineffective and preparation for potential further enforcement action to ensure compliance with the planning permission is being progressed.

3. Conclusion

The report concludes that the Director of Environment should be authorised to refuse this application on the grounds that sufficient material to complete the restoration in accordance with the approved scheme was shown to already exist on site in November 2003.

1. Description of the site and proposed development

- 1.1 Hollingson Meads Quarry is located in the Green Belt north of Harlow and the River Stort (Navigation). The access road, which the site shares with Pole Hole Quarry, leads south from Eastwick Road beside Pole Hole Farm. The Hollingson Meads site stretches away east along the north bank of the river, Pole Hole Quarry being to the west of the access road. Permission for sand and gravel extraction, erection of processing and ready-mixed concrete plants, and restoration to landscaped lakes and farmland was originally granted in 1989.
- 1.2 The entire site is located in the Green Belt, but does not affect any other ecological or environmental designations. The River Stort (Navigation) runs along the site's southern boundary.
- 1.3 The current planning application seeks to vary conditions 1, 2 & 3 of planning permission 3/2461-02. These conditions state that infilling of the site is to be completed by 30th November 2003, restoration is to be completed by 31st August 2004, and planting is to be completed by 31st December 2004. The submitted application proposes to extend each limit by approximately one year: to allow infilling until 30th November 2004, soil placement and restoration until 30th September 2005, and planting until 31st December 2005. The reason cited is the ongoing lack of available inert material. No other changes to the existing permission are proposed.

2. Consultations

- 2.1 East Hertfordshire District Council have objected to the application, on the basis that, when determining application 3/2461-02, the County Council's Development Control Committee stated that further applications of the same nature would be unlikely to receive favourable consideration.
- 2.2 Eastwick and Gilston Parish Council object to the proposals for the following reasons: the applicant's past history of applying for extensions of time, the applicant's failure to adhere to other conditions applicable to the site (sheeting of lorries is cited), ongoing detriment to local residents in terms of dirt, dust and noise, and the build-up of silt in local storm drains as a result of the quarry's vehicle movements.
- 2.3 High Wych Parish Council strongly objects to the proposed extensions of time, as when the last time limit extension was considered by the Parish Council, it was considered that that really should be the last extension allowed. However, they take the view that if the landfill site is still not full the restoration cannot be completed, and it would therefore appear that there is "little choice but to allow a further extension".

- 2.4 Sawbridgeworth Town Council's Planning Committee resolved that: "Agreement is given to the extension for the refurbishment only but not to any further excavation". No further excavation is proposed as part of this application.
- 2.5 Harlow Council Environmental Health Services has no objection to the application, provided no variations in working take place.
- 2.6 East Herts District Environmental Health reported that it may be detrimental to local residents if the use of the site is extended, following ongoing complaints from local residents regarding noise and dust.
- 2.7 The Environment Agency, Essex County Council and Transco had no comments to make regarding the application. Harlow Council and Thames Water reported that they have no objection to the application. Hertfordshire County Council as Highways Authority do not wish to restrict the grant of permission.
- 2.8 A total of 9 properties were consulted on the application and one letter objecting to the application was received. The issues of concern can be summarised as: ongoing noise, dust and pollution from the quarry, exacerbated by the proximity of the quarry access to residential properties.

An advert was placed in the Herts and Essex Observer newspaper on 19th December 2003 and a site notice was erected on 6th January 2004.

3. Planning Considerations

- 3.1 The relevant development plan policies are:

Hertfordshire Structure Plan Review 1991-2011 (Adopted April 1998)

Policy 5 (Green Belt) - In the Green Belt there is a presumption against inappropriate development, except in very special circumstances, for purposes other than those detailed in PPG2. Management of land within it should aim to contribute to the listed priorities for Green Belt land.

Policy 39 (The Water Environment) - Development will be required to take full account of the need to protect and where appropriate enhance, for example, river corridors and all watercourses.

Policy 55 (Waste Management) - States that disposal of waste will only be permitted where it can be demonstrated that, among other things, it is necessary and appropriate to restore sites worked, or being worked, for mineral extraction.

Hertfordshire Waste Local Plan 1995-2005 (Adopted January 1999)

Policy 21 - Makes provision for landfilling with waste in accordance with the scheme of restoration at Hollingson Meads Quarry.

Policy 45 - Requires that the standard of restoration which can be achieved and the progress and quality of restoration works on existing

sites within the operator's control be given particular regard when determining applications for waste disposal by filling of a mineral working void.

Hertfordshire Minerals Local Plan 1991-2006 (Adopted July 1998)

Policy 28 (Speed and Standard of Restoration) - Particular regard will be made to the standard of restoration which can be achieved when applications for filling are determined. Where appropriate, the operator's past restoration record will be taken into account.

East Hertfordshire Local Plan 1986-2001 (Adopted December 1999)

Proposals Map (December 1999) - The entire site is designated as a Landscape Development Area (LDA) and is in the Green Belt.

Policy RA2 (Green Belt) - There is a presumption against inappropriate development, excluding mineral extraction provided that high environmental standards are maintained and that the site is to be well restored.

Policy RA12 (Landscape Development Areas) - Landscape creation, improvement and enhancement measures will be promoted and priority will be given to improvements within LDAs.

East Hertfordshire Local Plan Second Review (Deposit Version December 2000)

Proposals Map - The entire site is shown as being in the Green Belt.

Policies GBC2 and GBC3 (Green Belt) - A Green Belt will be maintained as defined on the proposals map, wherein there will be a presumption against inappropriate development, as defined in PPG2.

- 3.2 The principal issues to be taken into account in determining this application are:
- Prolonged detriment afforded to local residents in terms of dirt, dust and noise and the impact on health of such continued detriment,
 - Past history of the site; applications and enforcement issues.

Impact on Residential Amenity

- 3.3 When considering the impact that the proposal has on residential amenity, it must be borne in mind that the planning permission that this application seeks to extend only applies to a relatively small portion of the site, and that the only activity unique to the present permission is the importation of inert material for infilling. Therefore, even if this application were to be refused as has been requested by, for example, the local Parish Councils, many of the activities to which local residents object would continue. Of the objections and complaints regarding noise, dust and pollution that have been received from consultees, none have stipulated any specific objection to the activities on this part of the site; rather, they stem from lorry movements associated with the site in general and the proximity of the site entrance to residential

properties. Working and restoration of the rest of the site would continue in accordance with other extant permissions. If permission for the current proposals were to be refused, any enforcement action would still require restoration of the land in question. Therefore, the only activity that would realistically be discontinued as a result of refusing this permission would be the importation of inert waste for infilling. However, since sufficient material for the restoration of the land has already been shown to exist on site, it is unlikely that refusal of the application would lead to any change in the activities on site to which local residents have objected.

- 3.4 The number of vehicle movements associated with the site is restricted to 90 per working day but this restriction is not specific to the importation of inert waste. Without this permission, 90 movements per day would still be permitted and so, over all, the number of lorry movements associated with the site could technically remain unaltered. Similarly, the current location of the quarry entrance is tied to a number of planning permissions, so refusing this application would not prevent lorries from using the present site entrance.

Planning History

- 3.5 Since the original grant of permission for mineral extraction in 1989 there have been 15 planning permissions granted for this site in total, many of which have been variations of previous permissions. The permission history is therefore rather complicated, but three permissions are still in force, one of which is 3/2461-02. This relates to the importation of inert waste to aid restoration and it is this permission which the current application seeks to vary.
- 3.6 Permission for infilling with inert waste to aid restoration in the north-eastern area of Hollingson Meads Quarry was initially granted in 1997 under reference 3/1640-96. This was to aid creation of a platform in the clay beneath the restored agricultural surface, as the in-situ clay had been found to be of a different structure than that envisaged when the restoration proposals accompanying the original permission for mineral extraction were drawn up. The site's Green Belt location makes achieving a high standard of restoration particularly important, as reflected in the relevant policies listed in Section 3.1. This importance becomes even more significant when it is considered that, prior to being excavated, this part of the Hollingson Meads site was designated as Grade 3a (i.e. best and most versatile) agricultural land. Given this designation, the restoration proposals were designed to return the land to this grade of agricultural versatility.
- 3.7 Permission 3/1640-96 was set to expire on 30th November 2001 but permission 3/2275-01 extended this limit for another year. The reason given for application 3/2275-01 was that unexpectedly high groundwater levels during 1999-2001 had severely hampered the progress on infilling. At the time of the application the applicant stated

that a two year extension might be required in order to complete the work, but at the time the application was determined the view was taken that infilling and restoration were progressing rapidly and so only one year's extension was granted. Permission 3/2275-01 was therefore due to expire on 30th November 2002.

- 3.8 Unfortunately this single year extension did not prove sufficient. In 2002 permission was sought to allow inert infilling until 30th November 2003. The reason cited was that: *"..there has been a shortfall of suitable material available locally... An extension of 12 months is sought because we are now in the winter season and due to prevailing weather conditions most large scale construction projects do not attempt to excavate soils until the spring when the ground is easier to work"*. This is precisely the same reason as has been given for the current application. A further year's extension was consequently granted under permission 3/2461-02, which permitted infilling with inert waste until 30th November 2003.
- 3.9 This brings us to the current application for an extension of time, submitted with, as previously mentioned, the same justification as was used for the previous application. The supply of inert material is, by the very nature of the demolition trade, inconstant. There is no reliable way to determine whether an extension of one year will enable the operator to source the necessary material and no evidence of contracted sources was provided by the applicant with the application. However, in this instance, a survey dated November 2003 provided by the applicant showed, following further analysis, that enough material existed on site at the time of the survey to complete the restoration to the approved levels anyway.
- 3.10 The current planning application also stated: *"..whilst in recent months a substantial amount of the void has been filled there is not yet sufficient material on site to complete the works to the previously approved landform."* It is of great concern that the survey supplied by the applicants showed that the application area that had already been restored had been over-tipped by up to 4m in some places. This implies that the restoration of the area has been unnecessarily delayed due to at least 10,000m³ of material that should have gone into the remaining void space being put in the wrong place.
- 3.11 Since this time and despite repeated discussions and correspondence with the operator, restoration of the land has continued at a level adjoining that which was shown to have been overtipped. This compounds the concern that the land has continued to be overtipped. Infilling the land over and above the approved levels will have increased the length of time taken to restore the land, increased the volume of material needed to fill it and infers that more vehicle movements of waste than were strictly necessary to carry out the operation have passed along the public highway. Restoration has continued at a pace such that, as of 4th August, infilling work had ceased and approximately

75% of the total site area had been restored. At this time the operator stated on site that he was almost sure that the entire area would be restored by the end of the summer. The current planning permission requires that placement of soils and associated restoration is completed by 31st August 2004.

- 3.12 Given the work that has already taken place on site it seems reasonable to conclude that this deadline could have been met and indeed, could still be met if the contours were left as built, even with the extra time that has lapsed while the void was overtipped. This would therefore appear to negate the need for an extension of time.
- 3.13 An additional area of concern is the quality of the restoration that has taken place. On initial inspection during a site visit it appeared that thinner layers of subsoil and topsoil than those required by the planning permission had been replaced over the tipped material. Further investigation works are scheduled to investigate this matter. The quality of the restoration is important for the reasons set out in paragraph 3.6.
- 3.14 Irrespective of whether the current application is granted, it may be expedient to undertake remedial works to mitigate the effects of the over-tipping. A Planning Contravention Notice was served on 3rd June 2004 but the subsequent response from the site operator was deemed to be insufficient. Preparation for possible further enforcement action is currently underway and the status of this action will be reported at the meeting of the Development Control Committee.

4. Conclusions

- 4.1 In view of the fact that other planning permissions exist for this site and that the number of permitted lorry movements would remain the same if permission were refused, it does not follow that refusal of this application would necessarily bring any discernible benefit to local residents in terms of the noise, dust and pollution that they experience.
- 4.2 There have already been two extensions to the 1997 permission. When permission was granted for the most recent extension (3/2461-02) the Development Control Committee advised that future applications for extensions of time were unlikely to be given favourable consideration. A lack of available inert material was cited as the justification for the application for an extension of time, yet volumetric calculations have indicated that sufficient material existed on site in November 2003 to complete the restoration to approved levels. No extension of time for infilling using imported material is necessary.
- 4.3 For the reasons outlined above it is recommended that the current application be refused.

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 3/2190-03 and consultation responses and representations received in response to it.

Hertfordshire Structure Plan Review 1991-2011 (Adopted April 1998)

Hertfordshire Waste Local Plan 1995-2005 (Adopted January 1999)

Hertfordshire Minerals Local Plan 1991-2006 (Adopted July 1998)

East Hertfordshire Local Plan 1986-2001 (Adopted December 1999)

East Hertfordshire Local Plan Second Review (Deposit Version December 2000)

Planning/Mineral Policy Guidance Note 2 (Green Belts)