

**EAST HERTFORDSHIRE DISTRICT**

**RETROSPECTIVE PLANNING APPLICATION FOR CRUSHING AND SCREENING OF DEMOLITION WASTE TO PRODUCE hardcore AND SOILS AT LAND AT FOXHOLES FARM, LONDON ROAD, HERTFORD, HERTS.**

Report of the Director of Environment

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Local Member: Peter Ruffles.

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**1. Purpose of Report**

To consider planning application ref. 3/0695-04 for retrospective planning permission for the crushing and screening of demolition waste to produce hardcore and soils at Foxholes Farm, London Road, Hertford.

**2. Summary**

2.1 This planning application seeks retrospective planning permission for a three-year period to use a yard within Foxholes Farm for the crushing and screening of demolition waste. The operations produce hardcore and soils, which were originally used for constructing roads and hard-standings on the farm. Not all of the concrete generated needs to be utilised within the farm and the remainder is exported from the site. The operations involve one concrete crusher, one soil screener and a loading shovel to process 20,000 tonnes of demolition waste and soils per year. All material that is not suitable for use as the final product is exported to a licensed disposal site.

2.2 The development site is located in a lower-lying area. All machinery is fitted with silencers and suppression equipment to the manufacturer's specification. The operations generate 12 lorry movements per day, which largely serve an area within a 15-mile radius of the site. These movements access the London Road and then northwards onto the primary road network. The hours of operation are 07:00 - 17:30 Monday to Friday, and 07:00 - 13:00 on Saturdays.

2.3 Objections have been received from Hertford Town Council and one neighbouring property. The main issues of concern relate to industrial

use of farmland and noise. The main issues to be considered in determining the application are Green Belt, landscape, rights of way, noise and dust.

### **3. Conclusion**

- 3.1 The report concludes that the Director of Environment should be authorised to refuse planning permission for planning application 3/0695-04. This proposal represents inappropriate development within the Green Belt. There has been no demonstration by the applicant of very special circumstances existing to justify the setting aside of Green Belt policy. The development is also detrimental to the surrounding landscape.
- 3.2 Dust and noise are important environmental considerations when determining such proposals. There has been no demonstration that noise generated by the development will be within acceptable limits to surrounding noise sensitive properties. There is no demonstration that dust would be managed to acceptable levels. There would be an adverse impact on the landscape. It is also considered that the access arrangements would be detrimental to the enjoyment of a Right of Way.

## **1. Description of the site and proposed development**

- 1.1 This planning application seeks retrospective planning permission for a three-year period to use a yard within Foxholes Farm for the crushing and screening of demolition waste. The application site lies within the Metropolitan Green Belt around 300m south east of the urban area of Hertford. The yard lies off a road that slopes down from the London Road to access the main farm complex. The site is in an area lying lower than the surrounding land, which slopes up towards the urban area of Hertford and London Road. This helps provide partial shelter to the proposal site. The site is visible from part of the A414 to the north. The access onto the London Road is via a wide access able to accommodate HGV's. The access road from the London Road to the application site is also a public Right of Way.
- 1.2 The operations produce hardcore and soils, which were originally used for constructing roads and hard-standings on the farm. Not all of the concrete generated needs to be utilised within the farm and the remainder is exported from the site. The operations involve one concrete crusher, one soil screener and a loading shovel to process 20,000 tonnes of demolition waste and soils per year. There are no proposals to erect a building or operate any of the machinery within the confines of a building. All material that is not suitable for use as the final product is exported to a licensed disposal site.
- 1.3 The operations generate 12 lorry movements per day, which largely serve an area within a 15-mile radius of the site. These movements access the London Road via the farm. The London Road provides easy access onto the primary road network. The hours of operation are 07:00 - 17:30 Monday to Friday, and 07:00 - 13:00 on Saturdays. All machinery is fitted with silencers and suppression equipment to the manufacturer's specification.
- 1.4 The site has in the past been used for storing scaffolding. East Herts District Council have an application for a Certificate of Lawful Use for use of part of the site for storage of scaffolding. The area that is being used for the recycling activity now exceeds the area set out in the planning application.

## **2. Consultations**

- 2.1 East Hertfordshire District Council: No response received at the time of writing this report.
- 2.2 East Hertfordshire District Council Environmental Health: No objection.
- 2.3 Highway Authority: No objection.
- 2.4 Environment Agency: No objection.

- 2.5 Transco: No objection.
- 2.6 Hertford Town Council: Object as the proposal represents industrial use of farmland, which may set a precedent for the area.
- 2.7 Thames Water: No objection.
- 2.8 BEAMS: No comments.
- 2.9 Rights of Way: Consider that lorry movements would be undesirable along the Right of Way. It is considered that were lorry movements to continue, a barrier and warning signs would be required to separate the lorries from walkers.
- 2.11 A total of 16 properties were consulted on the application. One letter has been received, raising concerns regarding noise.

### **3. Planning Considerations**

- 3.1 The principal issues to be taken into account in determining this application are:
- Waste Policies 2, 12 & 13;
  - Green Belt;
  - landscape;
  - noise;
  - dust;
  - highways; and
  - Rights of Way.

#### Waste Policies.

- 3.2 The location of the development is not in an area of search identified by Waste Policy 12 and does not meet the criteria set out in Waste Policy 13. The land is not despoiled and subject to redevelopment; it is not adjacent to existing waste management facilities; it is not within or adjacent to an established employment area; and it is not adjacent to compatible land uses.
- 3.3 Waste Policy 2 of the Hertfordshire Waste Local Plan provides, broadly, that Hertfordshire will make provision for the disposal of the equivalent of its own arisings. The proposal must be considered against the existing provision for concrete crushing within the area. Currently, there are six permitted facilities for the crushing of concrete operating within a 15 mile radius of the site within Hertfordshire (this is

the area that is stated within the application that is considered to be the market area concerned). These are:

- Water Hall Quarry
- Old Gravel Pit, Lower Hatfield Road;
- Hunsden Airfield
- Burnside, off A414, Cole Green;
- Anstey Chalk Quarry;
- Codicote Chalk Quarry.

- 3.4 Figures for arisings of construction waste and in particular concrete and rubble are difficult to arrive at. Concrete crushing can often take place on demolition sites alongside other demolition and site preparation activities without the requirement for a further planning permission. It is considered, however, that there is sufficient existing approved provision for recycling concrete within the locality and within 15 miles of the site within Hertfordshire.

#### Green Belt.

- 3.5 The site is located within the Metropolitan Green Belt, as identified in the Structure Plan and both the East Herts Adopted and Deposit Draft Local Plan. National land use policy guidance on the Green Belt is contained in PPG2. The principal relevant development plan policies are Waste Policy 16, Structure Plan Policy 5, Adopted Local Plan Policy RA2 and Deposit Draft Policy GBC3. Paragraph 3.12 of PPG2 (which is echoed in Structure Plan Policy 5) states that the making of changes in the material use of the land are inappropriate development unless they maintain the openness and do not conflict with the purposes of including the land within the Green Belt. Such development is not acceptable unless harm to the Green Belt, and any other harm, is outweighed by other considerations. PPG 2 states that there is a general presumption against inappropriate development within the Green Belt, and that such development should not be approved except in very special circumstances.
- 3.6 This proposal represents inappropriate development within the Green Belt, as the proposed use is not in those categories of use identified as appropriate within the Green Belt. The application area of this yard was previously used for the storage of scaffolding (the lawfulness of this use is currently under consideration by East Herts). There are several stockpiles of material on the site over 4m in height and covering around half the site area. There is also one concrete crusher, one soil screener, a JCB and a loading shovel. This plant is up to around 4m in height. The height of the machinery (screener and JCB) and bulk of the stockpiles would prejudice the openness of the site when compared to the previous use of the site.
- 3.7 The site lies at the bottom of gently undulating landscape sloping shallowly from the B1197 London Road and A414. The plant,

machinery, stockpiles and lorries at the site are prominently sited when observed from the A414. Whilst it is acknowledged that this proposal is located towards the bottom of a gentle slope in an existing yard it is still considered that the proposal would harm the openness of the Green Belt. This proposed development is also considered to conflict with the purposes of including land within the Green Belt. The proposal would result in the encroachment of (in terms of intensity and size) operational development into the countryside.

- 3.8 As a result of this it is necessary to consider whether there are any very special circumstances to justify this development within the Green Belt. The applicant has stated what are believed to be seven very special circumstances to justify this development. These will be addressed in the order raised by the applicant.
- 3.9 The applicant states that there are no similar facilities serving the area east of Hertford that can be easily accessed on the highway network. However, easily accessible facilities already exist as identified in paragraph 3.3 above.
- 3.10 The applicant states that the development is serving the need on the farm and is thus not an entirely divorced enterprise. It is considered that the needs of the farm can be adequately served by existing facilities.
- 3.11 The fact that the development lies on land that is stated as being previously redundant is not considered as a very special circumstance.
- 3.12 The development being not located contiguous to residential development and on lower lying land, is not a special circumstance but merely describes the development proposal.
- 3.13 The fact that the proposal is temporary (in this case 3 years) still causes harm to the Green Belt and does not remove the fact that the need is met by other facilities.
- 3.14 The applicant states that there is no other site for provision of this use. This point is already addressed by existing operational sites.
- 3.15 The fact that the operation is constrained from expansion by the size of the site is a statement of fact and not a special circumstance to justify this development. In any case the development has encroached onto land outside the application site.
- 3.16 It considered that in light of the above arguments and justification, that no very special circumstances have been demonstrated by the applicant to justify the setting aside of Green Belt policy.
- 3.17 It is considered that there is harm to the Green Belt setting caused by this development. There has been no demonstration that very special

circumstances exist to justify this development. It is therefore contrary to PPG2, Structure Plan Policy 5, Adopted Local Plan Policy RA2 and Deposit Draft Policy GBC3

Landscape.

- 3.18 The proposal site lies within a landscape development area (Adopted Local Plan Policy RA12). This policy emphasises the requirement for improvement and enhancement of such areas. The site is exposed and only screened by a building on the narrow eastern side. It is acknowledged that the yard adjoins a large farm complex however, the proposal site is easily visible from the surrounding area. There is little vegetation surrounding the site and the development is visible from the A414. The substantial stockpiles of material on the site and machinery of around 4m in height are detrimental to the landscape. It is considered that this development is contrary to Local Plan Policy RA12 and Waste Policy 33, and will have a detrimental impact on the landscape.

Noise.

- 3.19 Operations such as those proposed by this application can generate significant noise emissions. Policy 40 (Noise) of the Waste Local Plan states that planning permission will not be granted unless the applicant is able to demonstrate that no significant noise intrusion, or constraint arising from noise will occur, or that any such problem can be adequately controlled by condition. The site is fairly open at the boundaries and there are residential properties within 300m of the site. No information has been provided with regard to the noise emitted by the plant, and no evidence has been provided to show that noise levels at these properties would be acceptable. Therefore, the proposal does not meet the requirements of Waste Local Plan Policy 40. The proposal also has not been designed and operated in such a way as to minimise the impact of noise, which is contrary to Adopted Local Plan Policy BE10 and Deposit Draft Policy ENV28.

Dust.

- 3.20 Storage of processed and unprocessed materials and the movement of machinery and vehicles within the site will inevitably result in dust emissions under certain conditions. Dust emissions can cause negative impacts on amenity. Structure Plan Policy 57 requires mitigation measures to provide satisfactory protection against noise and pollution of air. The site has received an 'authorisation' from the District Council Environmental Health Department which requires that the machinery, stockpiles and haul road do not currently emit dust to the degree that it is considered to be a nuisance. The permit places conditions on the use of the site so as to control dust emissions (but not noise) in order that they do not cause a public nuisance. The applicant makes reference to the site lying on lower land than the

surrounding area, but no reference is made to the use of any specific dust suppression measures.

- 3.21 The operations do not take place within the confines of a building nor is a building proposed as part of the application. There are no trees or substantial vegetation surrounding this site. It is considered that given the potential for dust emissions from the proposal, the proposed mitigation measures (only fitted to the machinery) are not considered sufficient to prevent dust arisings in this location.
- 3.22 The site adjoins a Right of Way and no protection is proposed to users of this Right of Way. The lack of mitigation measures will not minimise impact on the surrounding environs which is contrary to Waste Policy 13 and therefore accordingly does not comply with Policy 57 of the Structure Plan. Given the lack of details submitted by the applicant the proposal is contrary to Deposit Draft Local Plan Policy ENV33.

#### Highways.

- 3.23 The proposed development is accessed from the B1197, which is a 'secondary distributor' road and the access to the site is wide and is capable of accommodating HGV movements. As required by Waste Policy 13 the development has good access to the main road network and, to primary distributor roads as required by Waste Policy 43 and Structure Plan Policy 29. The proposal also accords with Adopted Local Plan Policy M1 and Deposit Draft Policy TR1. The Highway Authority has raised no objection to the proposal.

#### Rights of Way.

- 3.24 Access off of the B1197 into the proposed development is from Hertford Road Used as a Public Path 43 (Hertford RUPP 43), which then is joined by Public Footpath 44 as it crosses farms fields northwards. RUPP 43 utilises the access road for around 300 metres where walkers and lorries would be side by without any separation. Lorry movements would be undesirable along the Right of Way. It is considered that were lorry movements to continue, a barrier and warning signs to separate the lorries from walkers would be required: such a barrier would need to take account of the definitive route of the Right of Way. No such measures are proposed as part of this application. It is considered that the increase in lorry movements along the Right of Way is detrimental to the enjoyment of the footpath. Waste Policy 39 states that the use of rights of way to obtain vehicular access to the site will not be permitted. The proposal is therefore contrary to Waste Policy 39.

## **4. Conclusions**

- 4.1 This proposal represents inappropriate development within the Green Belt. It is considered that the development will cause harm to the openness of the Green Belt and result in the encroachment of operational development within the Green Belt, which is contrary to the purposes of including land within the Green Belt. There has been no demonstration of very special circumstances to justify the setting aside of Green Belt policy. The development is also detrimental to the surrounding landscape.
- 4.2 The proposal would not result in improvement or enhancement of the Landscape Development Area and would have an adverse impact on the landscape of the locality. Dust and noise are important environmental considerations when determining such proposals. There has been no demonstration that noise generated by the development will be within acceptable limits to surrounding noise sensitive properties. It is considered that the dust generated from the proposed development would not be acceptable, and the applicant has not demonstrated any mitigation measures to be used will be effective. It is also considered that the access arrangements for the development are contrary to Waste Local Plan Policy 39.
- 4.3 As such it is concluded that the Director of Environment be authorised to refuse planning permission for planning application 3/0695-04. The reasons being are inappropriate development within and damage to the Green Belt, adverse impact on the landscape, impact of noise and dust, and the proposal is contrary to Waste Policy 39.
- 4.4 This application is retrospective and, as the ongoing activity is considered to conflict with planning policy and is continuing to injure the amenity of the area, it is recommended that enforcement action be taken to remedy this breach of planning control.

## **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 3/0695-04 and supporting information.

Consultation responses and representations received in response to planning application ref. 3/0695-04.

Hertfordshire Waste Local Plan 1995-2005, adopted January 1999; Policy 12 (Areas of search for permanent facilities for re-use, recovery, recycling and transfer of waste), Policy 13 (Criteria for permanent facilities for re-use, recovery, recycling and transfer of waste outside areas of search), Policy 16 (Permanent facilities for re-use, recovery, recycling and storage of waste at mineral, landfill and landraising sites), Policy 33 (General Impact on the Wider Landscape), Policy 39 (Rights of Way), Policy 40 (Noise), Policy 43 (Traffic).

Hertfordshire Structure Plan Review 1991-2011, adopted April 1998; Policy 29 (Traffic and safety implications of development proposals), Policy 57 (Potentially Polluting Development and Location of Potentially Polluting Development).

The East Hertfordshire Local Plan 1986-2001 (with Alterations) adopted December 1999; Policy RA2 (Metropolitan Green Belt), Policy RA12 (Landscape Development Areas), Policy BE10 (Noise), Policy M1 (Road Hierarchy).

The East Herts Local Plan Second Review (Deposit Version – December 2000); Policy GBC3 (Appropriate Development Within the Green Belt), Policy TR1 (Road Hierarchy), Policy ENV28 (Noise Generating Development), Policy ENV33 (Air Quality).