

**HERTFORDSHIRE COUNTY COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

THURSDAY 26 MAY 2016 AT 10.00 AM

EAST HERTS DISTRICT

Agenda No.

5

APPLICATION FOR THE VARIATION OF CONDITION 5 (TIME LIMIT FOR COMPLETION) AND CONDITION 7 (VEHICLE MOVEMENTS) ON PLANNING PERMISSION 3/0518-11 TO EXTEND THE TIME LIMIT TO 13 SEPTEMBER 2016 AND INCREASE VEHICLE MOVEMENTS TO 48 (24 IN AND 24 OUT) AT WATERFORD LANDFILL SITE, BRAMFIELD LANE, WATERFORD, SG14 2QF

Report of the Chief Executive and Director of Environment

Contact: Rob Egan Tel: 01992 556224

Local Member: Ken Crofton

Adjoining Local Member: Peter Ruffles

1. Purpose of Report

- 1.1 To consider planning application reference 3/0649-16 for the variation of Condition 5 (time limit for completion) and Condition 7 (vehicle movements) on planning permission 3/0518-11 to extend the time limit to 13 September 2016 and increase vehicle movements to 48 (24 in and 24 out) at Waterford Landfill Site, Bramfield Lane, Waterford.

2 Summary

- 2.1 Permission is sought to vary Condition 5 of planning permission reference 3/0518-11 in order to extend the lifetime of the re-restoration of the former landfill site at Waterford Pit, extending the time period from 18 months by a further 6 months. This would take the end date up until 22 September 2016. In addition, permission is sought to vary Condition 7 of the same planning permission, thus allowing 48 HGV movements per day as opposed to the original 32 movements.
- 2.2 It is considered that there are significant benefits of allowing the works on site to continue to completion, thus allowing the land to have a beneficial afteruse together with the creation of suitable wildlife habitats. Although the continued works would have a temporary impact on openness, it is considered that the end result of a fully restored area of land to a high standard outweighs this impact.
- 2.3 To allow an increase in HGV numbers assists in completing the works in a timely manner in accordance with the proposed extended time

period. The Highway Authority concludes that there is capacity within the local highway network for such an increase without it adversely impacting upon safety or the effective operation of the highway network.

- 2.4 It is therefore concluded that permission should be granted for the suggested variations of Conditions 5 and 7.
- 2.5 In addition, there have been issues with compliance with the existing Condition 7 due to excessive HGV numbers. In order to ensure compliance with the varied Condition 7, it is proposed to include a new condition that requires the operator to record all HGVs entering and leaving the site.

3. Description of the site and proposed development

- 3.1 The application site is located approximately 1.5 kilometres to the north-west of the edge of Hertford, and just west of the village of Waterford. The former Waterford Landfill Site comprises 43 hectares in total. The application site covers approximately 15 hectares of the former landfill, consisting of the western section of the site. The site is located within the Metropolitan Green Belt.
- 3.2 Surrounding land is predominantly rural and agricultural in nature. However, immediately to the north of the application site is a large detached property set in relatively large grounds. To the south east of the application site is the Goldings Estate; a former large country house that now has a number of residential properties within it and within its grounds. Rough agricultural land comprising restored areas of the former landfill are located to the east of the application site, with the village of Waterford approximately 300 metres away beyond this.
- 3.3 Access to the application site is gained via Tattle Hill, which runs alongside the western boundary of the site with a vehicular access directly off this road. Tattle Hill is a rural road with a national speed limit in this location, linking Hertford with the village of Bramfield approximately one kilometre to the north west of the site.
- 3.4 The landfill site has been used since the 1940s, initially as a quarry and later to dispose of waste by landfill. Progressive restoration took place in accordance with the requirements of a Section 52 Agreement signed in 1983, and final restoration was completed in 1995. However, the restoration of the site proved problematic as a result of the differential settlement of the underlying waste material. This affected the levels found across the application site, which were lower than those found in the adjoining areas of landfill. Differential settlement occurs where waste that has been landfilled breaks down and settles by different amounts due to the varying nature of the waste. The waste gradually occupies less space and the overlying surface falls. Problems occur where this settlement is uneven, with a typical 'egg box' landform

resulting in a series of hills and dips across the land. Drainage problems are a major feature with water collecting seasonally in the dips, and with soils not being able to retain sufficient moisture on the hills leaving crops seasonally without water. The uneven surface also presents problems for normal agricultural machinery, which cannot cope with the variations in landform. Agriculture therefore performs poorly and establishing a sustainable afteruse is difficult. The differential settlement within the application site resulted in rough grassland and dense scrub.

- 3.5 In addition, the sides of the former haul road within the application site featured steep falls of approximately four metres, creating a valley feature. The steep sides were colonised by weeds and scrub, and the base of the road comprised hard standing and gravel. This resulted in an area unable to be used for the intended agricultural afteruse and which had become unmanageable. The area proposed for arable use (Hyde Field) and the meadow area had settled lower than anticipated. Consequently, surface water collected in the lower areas during periods of heavy rain, hindering the use of the land for agricultural purposes other than grazing.
- 3.6 Subsequently, planning permission was granted on 30 April 2012 (reference 3/0518-11) to re-restore part of the former landfill site through the importation of 85,000 cubic metres of inert material over an eighteen month period. The restoration works sought to bring the land back to a productive agricultural land use, which would then form part of a larger agricultural land holding managed by the current farmer.
- 3.7 The permission allows the majority of the application site to be restored to arable use, with the remainder featuring a species-rich hay meadow that is anticipated to benefit a wide range of invertebrate groups and wild birds. The restoration produces landscape, ecological and amenity benefits by creating a network of new habitat features (new hedgerows, native scrub woodland and open ground) which would be integrated to link and expand on existing hedgerow and woodland features. Grassland margins containing a mixture of grasses and wildflower species would buffer the new and existing hedgerows and woodlands and provide a habitat area for invertebrates, birds and small mammals.
- 3.8 The planning permission was granted subject to 22 conditions. This planning application seeks to vary two of those conditions.
- 3.9 In the first instance, Condition 5 of the planning permission states:

The development to which this planning permission relates shall be completed within eighteen months from the date of the commencement of the development. For the purposes of this condition, this shall include all operations authorised or required by this permission but shall exclude those relating to aftercare.

Reason: To ensure that restoration of the land to a beneficial after use is achieved within a reasonable timescale.

3.10 Condition 7 of the planning permission states:

There shall be no more than 32 Heavy Goods Vehicle movements (16 in, 16 out) during one working day.

Reason: In the interest of highway safety.

3.11 The re-restoration of the land in accordance with planning permission 3/0518-11 commenced on 22 September 2014. Therefore, to comply with Condition 5, all works should have been completed by 22 March 2016. However, the developers have been unable to achieve this as they state that the works have taken place over the course of two winters, causing problems with moving material on site, sourcing suitable material, and site flooding. These factors, combined with a two week road closure, have led to an inability to complete the re-restoration works within the required timescale. The current situation is that Phase 1 (Hyde Field) has been restored but remains to be top-soiled. Phase 2 (Meadow Field) is nearing completion but will also need topsoil. The infilling of the 'valley' feature, consisting of the old haul road, has yet to commence.

3.12 A survey was carried out on behalf of the applicants on 12 February 2016. This identified that there was a shortfall – at that time – of 29,445 cubic metres of restoration material. Approximately 24,000 cubic metres of topsoil was also identified as being needed to complete the works, although 8,000 cubic metres is presently stored on the site. Consequently, the total for restoration material and topsoil still required to be imported was in the region of 45,000 cubic metres. The applicants estimate that this works out at 3,000 HGV loads of material needed to be imported.

3.13 In order to ensure that this importation – and subsequent re-restoration – is carried out as quickly as possible, the applicants seek to increase the maximum number of HGV movements to 48 a day (24 in, 24 out). They estimate that the works could therefore be completed by 13 September 2016, hence the application to extend the end date to then.

Planning history

3.14 Other than the historic planning permissions relating to the quarrying and landfill operations, the only relevant planning permission is the one that this application seeks to vary, reference 3/0518-11.

4. Consultations

4.1 East Herts District Council – Planning

No comments received.

4.2 Bramfield Parish Council

The operation at Waterford Landfill Site has caused more complaint to Bramfield Parish Council than any other topic in recent memory, and has resulted in much communication with HCC over the past 8 months.

We would like to object to the extension on the time limit of this permission on the grounds that the original calculations on volume required and lorry movements required were correct. At no point in the operation has lorry movement been restricted by unforeseen circumstance or weather. Surveyed levels reported to us by council officers in September 2015 suggested that the work had been 73% completed in the last 12 months. We are now being asked to believe that the final 27% could not be completed in the following 6 months, throughout which time the daily limit on lorry movements was largely ignored. There has also been substantial tipping at the site after March 13th, when the original permission expired, adding to the already massive stock pile of material waiting to be levelled. I have been informed by Jan Hayes Griffin that an independent survey commissioned by HCC will be carried out and trust that this will form the basis of the decision.

We would further like to object to the application to increase the lorry movement limit to 48 vehicles per day. Having witnessed the chaos created by this level of HGV traffic at the junction of Bramfield Road and North Road, and at the many bends with poor sight lines on this route, we feel that this increase is inappropriate.

4.3 Environment Agency

Thank you for consulting us on this application. We have reviewed the information submitted and have no objection to the varying of conditions 5 and 7.

Please be aware that we only regulate operations within the site boundary. We do not deal with off-site traffic movements. You need to take traffic and its impact (increased emissions, dust and traffic noise) into account in your decision making process.

4.4 Hertfordshire County Council - Highways

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

- 1) Best practical means shall be taken at all times to ensure that all vehicles leaving the site during restoration of the site are in a

condition such as not to emit dust or deposit mud, slurry or other debris on the highway.

Reason: To minimise the impact of construction vehicles and to improve the amenity of the local area.

2) There shall be no more than 48 Heavy Goods Vehicle movements (24 in, 24 out) during one working day.

Reason: In the interest of highway safety.

INFORMATIVE: The most recent site survey has revealed a further 45,000m³ of combined material and topsoil is required to complete the restoration, which under current vehicle and time restrictions would not be possible. Therefore it is proposed to extend the date for restoration of the site to the 13th September 2016 and increase vehicle movements to 48 movements (24 in, 24 out). No extra material above the originally proposed amounts would be brought in. Overall an average of 16 loads of restoration material and 8 loads of topsoil daily (Monday – Friday) over a 25 week period would be imported in order to complete the restoration works. No other changes are proposed as part of this application.

The existing planning permission restricts the number of HGV movements to 32 (16in, 16out). The proposal to increase the number of HGV movements to 48 (24 in, 24 out) is acceptable from a highway point of view. Therefore subject to the conditions set out above the Highway Authority has no objection to the proposal

4.5 Third Party Comments

The application was advertised in the press and a total of 105 letters were sent to residents and other premises in the surrounding area. A site notice was erected on 14 March 2016.

Five (5) responses have been received, all objecting to the application. These can be summarised as follows:

- Lorries are breaking up the road, especially at the edges due to HGVs passing each other – broken edges and potholes are a danger to cyclists, and verges are being reduced in width.
- The road surface is muddy and rarely cleaned – this results in a slippery surface.
- Frequent flooding of the road adds to the problems.
- The frequency of traffic is intimidating to pedestrians, especially those accessing the school on North Road.
- The path adjacent to the cemetery on Bramfield Road had to be rebuilt due to HGVs mounting it as the carriageway is not wide enough.
- The number and size of vehicles should be reduced.
- Where cars are parked on Bramfield Lane, HGVs cause havoc.

- Walking from Broad Oak End along Bramfield Road is nigh on impossible due to lorries.
- Another 6 months of lorries would be intolerable.
- The operators appear to be breaching permitted HGV numbers.
- The pavement from Broad Oak End to North Road is half-covered in mud and debris, making walking hazardous and impossible to push a buggy/wheelchair.
- The road cannot tolerate an increase in HGVs.
- Propose that (i) there should be a speed limit on Bramfield Road, (ii) verges to be restored and protected, (iii) the pavement should be cleared of debris, (iv) the number of HGVs to be monitored and controlled, and (v) the road and verges to be repaired at the end of the project.
- Speed of HGVs is excessive.
- Driving in convoy is unsuitable due to the narrow and twisting nature of Bramfield Road.
- There has been very little monitoring or enforcement of HGV numbers.
- Roads are more susceptible to flooding because of the works.
- It is likely that tonnages of waste have already been exceeded.
- There is a lack of gas monitoring within the historic landfill site.
- Developers have been noted working at weekends outside permitted hours.
- There is an audible noise at the adjacent property as a result of the operations.
- HGVs have not always followed the prescribed routes.
- Stockpiles on site result in visual intrusion to the adjacent property.
- The grant of an extension may set a precedent for future extensions.
- Excess water from the site has drained into the neighbouring property.

5. Planning Policy

National Planning Policy Framework 2012 (NPPF)

- 5.1 The NPPF was released in March 2012. The NPPF contains the presumption in favour of sustainable development. The document also promotes the development plan as the starting point for decision making and that decisions should be made in accordance with an up to date Local Plan unless material considerations indicate otherwise.
- 5.2 The NPPF seeks to protect Green Belt land stating that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics being their openness and their permanence. Green Belt purposes include checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns merging into one another; assisting in safeguarding the countryside from encroachment; preserving the setting and special

character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 5.3 Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

National Planning Policy for Waste 2014 (NPPW)

- 5.4 This policy document seeks to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment, together with ensuring the design and layout of new development and other infrastructure such as safe and reliable transport links complements sustainable waste management.

The Development Plan

- 5.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.6 The development plan comprises the Hertfordshire Waste Development Framework Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026 (the Waste Core Strategy), and the East Herts Local Plan 2007.
- 5.8 The most relevant planning policies to consider for this application are:

Hertfordshire Waste Development Framework Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026

Policy 1A – Presumption in Favour of Sustainable Development
Policy 4 – Landfill and Landraise
Policy 6 – Green Belt
Policy 11 – General Criteria for Assessing Waste Planning Applications
Policy 13 – Road Transport & Traffic
Policy 15 – Rights of Way
Policy 16 – Soil, Air and Water

East Herts Local Plan

Policy GBC1 – Appropriate Development in the Green Belt
Policy GBC14 – Landscape Character
Policy SD5 – Development on Contaminate Land
Policy TR20 – Development Generating Traffic on Rural Roads

Policy ENV10 – Planting New Trees
Policy ENV17 – Wildlife Habitats
Policy ENV20 – Groundwater Protection
Policy ENV21 – Surface Water Drainage
Policy ENV25 – Noise Sensitive Development

6. Planning Issues

The extant planning permission

- 6.1 From the outset, it was considered that the scheme to carry out a re-restoration of the former landfill site was needed and justified as it would ultimately provide significant enhancements to the site. This was on the basis that the site historically suffered from differential settlement, having an adverse impact on drainage throughout the site and affecting the ability of the site to be used for agriculture. It was therefore considered that the re-restoration would provide an increased viability of the land for its intended agricultural use, in addition to wider visual and ecological improvements to the site through planting and habitat creation. Drainage would also be improved through the carrying out of the works.
- 6.2 Whilst the scheme was considered to be inappropriate within the Green Belt, it was concluded that the completed development would not have an adverse impact on openness. However, openness was considered to be likely to be affected during the construction phase of the works as a result of vehicle movements and earthmoving and infilling activity on the land. However, the overall benefits to the site were considered to outweigh any temporary harm to openness.
- 6.3 In terms of vehicular movements, the Highway Authority did not object to the proposed development subject to conditions being imposed limiting HGV movements to 32 per day (16 in, 16 out), and to ensure that no mud or debris was deposited on the highway.
- 6.4 Planning permission was subsequently granted for the re-restoration of the land on the following basis, which formed the conclusion of the original committee report:

“The nature and purpose of the proposed works, together with the benefits they would provide to the character and use of the land, are considered significant enough to outweigh the impact of the proposal on the openness of the Green Belt, and any other harm, for the temporary period of eighteen months. Accordingly, the proposal is considered acceptable in light of PPG2 and policy GBC1 of the East Herts Local Plan. The Environment Agency is satisfied that the proposed works would not introduce additional contamination or flood risk measures, subject to the inclusion of two suggested conditions. Additionally, the proposal includes measures to improve the drainage of the site and seeks to address existing flooding issues at the site. The

impact of the proposal on the highway network could be managed through the use of appropriate planning conditions which could address issues raised during consultation. In light of the details included with the application, including additional survey work undertaken and the creation of new ecological habitats, the proposal is considered acceptable in terms of the impact on ecology. The proposed hours of operation could be altered to allow works to start later in the morning to prevent harm to residential amenity.”

The present application

- 6.5 Following on from the above, it can be concluded that the principle of carrying out the re-restoration works was fully justified at the time of the original application. This is not in doubt in respect of this application, with there being significant benefits to completing the development. What needs to be considered, however, is the justification for allowing the works to continue for a further six months, together with the acceptability of increasing lorry movements into the site.
- 6.6 The applicants have outlined the problems they have had in achieving the required volume of importation of material within the 18 month timescale, these being that the works have taken place over the course of two winters, which has caused problems with the movement of material on the site, especially as a result of flooding of the land during these periods. There have also been issues with the sourcing of suitable material. On the face of it, therefore, there appear to be reasonable reasons why the re-restoration has yet to be completed. From the applicants’ survey, there appears to be a significant shortfall of waste material presently on site, and the full restoration of the site – together with the benefits accruing from this – cannot be fully achieved without allowing an extension of time to complete the work. However, it is important to state that the county council is in the process of commissioning its own survey of the site in order to clarify the true extent of the shortfall of material.
- 6.7 It is acknowledged, however, that the ongoing earth works are presently having an adverse impact on the openness of the Green Belt. As set out above, it was originally considered that an 18 month impact on openness was acceptable when looked at in the context of the permanent benefits to the land. Although the continued harm to openness is not ideal, the applicants only seek a further six months to finish the restoration. On this basis, it is considered that, as before, the long-term benefits to the site clearly outweigh this temporary harm.
- 6.8 Should permission be refused for the extension of time, works would have to cease resulting in land that would not only remain unrestored, but which would not be able to be restored to an acceptable standard in the future due to the shortfall of the required restoration materials. Although the continued operations will undoubtedly have an impact on local amenity in the short-term, the period in question is relatively

insignificant when looked at in the context of the long-term future of the site.

- 6.9 Local residents have highlighted issues with the current drainage of the land whilst the earthworks have taken place. This is likely to remain the case whilst the works remain uncompleted, but the completion of the restoration will allow the improved drainage of the site to be completed, which should remove these concerns.
- 6.10 The applicants are also seeking to increase HGV movements from 32 to 48 per day, primarily to ensure that the full level of importation is concluded within the extended period of time. This, in itself, is a reasonable justification for allowing the relevant condition to be varied, thus ensuring that the completion of the works is now timely. The Highway Authority has responded to this proposal and considers that the proposed increase in numbers is acceptable, raising no concerns regarding highway safety or the free and safe flow of traffic.
- 6.11 Policy 13 of the Waste Core Strategy also requires that the traffic impacts of development should have no significant adverse impact on amenity, human health, and the historic and natural environments. Although the traffic accessing the site travels through residential areas within Hertford and close to properties at Broad Oak End along Bramfield Road, the 50% increase in HGV numbers will still only result in one HGV every 13 minutes, on average, during the normal working day. Bearing in mind that the development will be completed by September 2016, it is considered that such an increase in lorries will not significantly harm any of the criteria set out in Policy 13.
- 6.12 There have been occasions when the developers have breached the current condition relating to HGV movements, and the county council believes that such breaches have been – on occasion – substantial. Local residents and Bramfield Parish Council have, quite rightly, expressed considerable concern and criticism in this respect, not only of the operators but of the county council itself in its investigatory and enforcement capacity. The concern of residents centres on the issue of highway safety due to the volume of traffic and the potential for this to compromise the safety of other road users. Formal monitoring of the site has taken place and officers have responded to the concerns of the local community, warning the applicants of the risk of formal enforcement action should breaches be detected. Ad hoc regular monitoring of vehicle numbers continues, and officers believe that the operators are presently complying with the relevant condition within the planning permission. Nevertheless, should planning permission be granted, officers will continue to ensure that HGV numbers are not in excess of the condition. Furthermore, the original planning permission does not have any requirement for the developers to record the vehicles that enter and leave the site. Due to the need to ensure that vehicle numbers are not being breached, and to assist the county council in the monitoring of this, it is proposed to include an additional

condition to the permission that requires the operator to keep a log of vehicle movements.

- 6.13 Local residents have also highlighted the issue of mud and debris on the highway and adjacent footpaths, together with the damage to highway verges and flooding of the carriageway. In respect of this latter issue, the flooding was predominantly as a result of gullies being blocked. This issue should have since been resolved, however, with the Highway Authority clearing the gullies. In respect of the verges, it is clear that these have been eroded, probably as a result of HGV traffic travelling along Bramfield Road. However, these should regenerate naturally upon completion of the development. In respect of mud and debris on the road, Condition 10 of the planning permission requires measures to be taken to ensure that this does not happen. However, officers have carried out numerous visits to the site and locality and have never considered that the condition of the road has required formal action to be taken in this respect. Where there has been mud and debris on the road, this has been the result of erosion of the verges and/or the blocked gullies, which is not in contravention of the permission. The developers are fully aware of the need to ensure that the vehicles do not trail mud onto the highway, and the wheel wash on site is fully maintained and operational at all times.

7. Conclusion

- 7.1 It is recommended that planning permission be granted for the following reasons.
- 7.2 Although the proposed extension of time will continue to adversely affect openness and will be visually intrusive, especially to the adjacent landowner, the extension will be relatively short and so the harm will be temporary, not adversely affecting openness or amenity for any significant period of time. There are significant benefits that will result from the completion of the works, and it is considered that these outweigh the temporary harm whilst works are carried out.
- 7.3 The proposed increase in vehicle numbers is also considered acceptable, especially as it will assist in the delivery of the completion of the development within the required timescale.
- 7.4 It is therefore recommended that planning permission be granted to vary Conditions 5 and 7 of planning permission reference 3/0518-11, with all other conditions remaining the same except where they need to be updated to reflect any already approved schemes in respect of the extant permission. It is also recommended to add a new condition to the planning permission to require the operators to record all vehicle movements into and out of the site.
- 7.5 Condition 5 will read:

“The development to which this planning permission relates shall be completed by 22 September 2016. For the purposes of this condition, this shall include all operations authorised or required by this permission but shall exclude those relating to aftercare.”

7.6 Condition 7 will read:

“There shall be no more than 48 Heavy Goods Vehicle movements (24 in, 24 out) during one working day.”

7.7 The new condition will read:

“A record of the number of Heavy Goods Vehicles entering and leaving the site in any one working day shall be kept on the site by the operator. These shall contain details of the registration numbers and the date and time of delivery of materials to the site, together with details of the type and nature of the materials being delivered. These records shall be readily available for inspection by the Waste Planning Authority.

Reason: To ensure that the operator does not exceed the vehicle movements allowed by Condition 7 thereby ensuring that highway safety is not compromised and in the interests of the free flow of traffic.”