

**HERTFORDSHIRE COUNTY COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**  
**THURSDAY 26 MAY 2016 AT 10AM**

Agenda No.

**2**

**EAST HERTS DISTRICT**

**PLANNING APPLICATION FOR THE VARIATION OF CONDITION 71, THE PRE-SETTLEMENT CONTOURS IS BEING SOUGHT TO REGULARISE THE TIPPED CONTOURS ON SITE AND ALSO TO PROVIDE DETAILS ON THE LANDSCAPING RESTORATION AND AFTER USE TO REFLECT THE NEW CONTOURS AND TO DISCHARGE CONDITION 73 OF 3/2279-13 AT BUNKERS HILL QUARRY, LOWER HATFIELD ROAD, HERTFORD**

Report of the Chief Executive & Director of Environment

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Local Member: Ken Crofton

**1. Purpose of report**

1.1 To consider application 3/0927-16 for the variation of Condition 71, the pre-settlement contours to regularise the tipped contours on site and to provide details of landscaping restoration and after use to reflect the new contours and to discharge Condition 73 at Bunkers Hill Quarry, Lower Hatfield Road, Hertford

**2. Summary**

2.1 The application site is located on the Lower Hatfield Road approximately 1km south west of Hertford, as shown on the Ordnance Survey extract in Appendix I.

2.2 The application seeks to supersede the approved pre-settlement restoration contours with a plan showing raised contours and alternative landscaping proposals.

2.3 In summary the application proposes to carry out development without complying with Condition 71 of 3/2279-13, which limits the pre-settlement contours to a maximum of 76m AOD, to allow the retention of deposited material to a maximum of 77m AOD, and to regularise the deposit of waste on the land without planning permission. The application also provides landscaping details seeking to discharge condition 73 of 3/2279-13.

2.4 Condition 71 of 3/2279-13 reads:

Before the fill material (including the capping layer) in any area of Bunkers Hill Quarry is within 1.2 metres of the pre-settlement levels (as shown on Plan Number SQE/BHQ/05a dated 19 October 2000), profile boards shall be set up in that area to show the final levels of fill material (capping), subsoil overburden and topsoil respectively. Remedial action shall be taken if the results of the monitoring of settlement show that the predicted post-restoration design contours are not likely to be achieved.

Reason: to ensure the proper restoration in accordance with the submitted plan.

2.5 Condition 73 of 3/2279-13 reads:

A detailed landscaping, restoration and afteruse scheme shall be submitted to the Mineral Planning Authority for approval, within 3 months of the date of this notice and shall specify the following:

- a) details of existing and proposed perimeter screenbunds, including levels, contours, peak heights, slopes, stability treatment, grass seeding, maintenance and phased removal as restoration proceeds with timescales for the restoration of each phase;
- b) the phased restoration of Bunkers Hill in accordance with the Plan Number SQE/BHQ/05a dated 19 October 2000, or other such plan as may be approved by the Mineral Planning Authority with timescales for the restoration of each phase;
- c) the final afteruse of Bunkers Hill, which shall include agricultural and woodland restoration; d) methods of soil handling and replacement, and depths of soils to be replaced on the agricultural and woodland restoration areas; e) for areas of agricultural restoration, the methods of soil cultivation; f) for woodland areas, the planting specification, including species mixes, spacing, size and number of plants.

Reason: to ensure Bunkers Hill is restored in an orderly manner to a condition capable of beneficial afteruse and in the interests of the amenity of local residents.

Levels

2.6 The submitted topographical survey shows the levels on the upper part of the landform is currently 79.5m AOD, which is approximately 2m above the levels of the adjoining land to the south.

2.7 The proposed development, shown on drawing referenced 1743-01-01 Rev K (Appendix II) shows the proposed final contours:

2.8 The proposed landform would have a high point of 77m AOD extending for approximately 150m north towards the centre of the site. The landform slopes towards the Lower Hatfield Road to 50m AOD on the northern edge of the site. The fall in levels from 77m AOD to 50m AOD occurs over a distance of 250m. The proposed landform has two distinct ridges on the north east and south west corners created by the mass of material in the upper sections of the landform. The retention of

the excess material creates steeper flanks, particularly on the west side of the landform.

- 2.9 The overall impression is that of a significantly raised landform extending with a flattish top for a distance of approximately 150m with two distinct ridges and a steep west flank adjoining Stockings Lane.
- 2.10 Drawing SQE/BHQ/05a (Appendix III) shows the approved pre-settlement contours maximum of 76.4m. The levels fall towards the centre of the site to approximately 73m AOD. Overall, the landform is more rounded than the proposed scheme with less pronounced ridges on the north east and south west corners and gentle flank elevations.

### **3. Background**

- 3.1 Members will be familiar to the background to this case having been reported to the Development Control Committee on 23 June 2015 when planning permission was refused for a similar description of development to regularise the tipped contours on site. The reasons for refusal are set out in the attached decision notice (Appendix IV). No appeal was made against the refusal.
- 3.2 The previous refusal is a material consideration and the same considerations therefore apply. Members should also consider whether the current proposal would overcome the reasons for refusal and whether the proposal would be acceptable on its own merits.
- 3.3 The site operates under the planning conditions modified by the Planning Inspector's decision in September 2014. That decision (3/2279-13) sets the following timescales for completion:
- South Field Wood – December 2014
  - Bunkers Hill Quarry - December 2017
  - Water Hall –December 2019.
- 3.4 The conditions attached to 3/2279-13 control the final phases of restoration of Southfield Wood, Bunkers Hill Quarry, the haul road and Water Hall, including details of final levels, the submission of detailed schemes, and control the operation of the quarry i.e. noise and air quality.
- 3.5 Officers have been undertaking a review of the site operations with regarding to compliance with planning control.
- 3.6 The County Council issued an Enforcement Notice dated 6<sup>th</sup> May 2016 setting out the steps it considers necessary to provide for an acceptable restoration of Bunkers Hill Quarry. The Enforcement Notice requires the Operator to comply with the approved pre-settlement contours shown on drawing SQE/BHQ/05a.

#### **4. The site and local area**

- 4.1 Bunkers Hill Quarry forms part of the Water Hall complex which is divided by the Lower Hatfield Road. 'Bunkers' is the only active area to the south of the Lower Hatfield Road. South Field Wood, the haul road, and the plant and operations areas are all located on the north side of the Lower Hatfield Road.
- 4.2 The site is on the southern edge of the Essendon: Brickenden farmed slopes landscape character area 47 as defined in the Hertfordshire Landscape Character Assessment, which is characterised by gently undulating arable slopes and extensive mineral extraction. To the north of the Lower Hatfield Road the Water Hall complex falls within the Middle Lea Valley West landscape character area 65 which is characterised by the flat pastoral valley and shallow valley slopes.
- 4.3 The site is located within the Metropolitan Green Belt.

#### **5. Proposed development**

- 5.1 In summary the application proposes:

- The retention in situ of some 200,000-280,000m<sup>3</sup> of waste
- removal of 80,000m<sup>3</sup> of 'unsuitable' waste
- upper contour of between 77 and 78m AOD
- woodland planting of woodland on east, south and west boundaries
- hedgerow planting to establish historic field pattern

- 5.2 Paragraph 9.2 of the Planning Statement states:

*The proposal would remove over-tipped waste from the top of the Bunkers Hill landfill and place this in existing void areas and on landfill flanks. The revised proposals could require the removal of c.80,000m<sup>3</sup> of unsuitable material to enable the soil restoration profiles suitable for agricultural uses to be established and landform to be achieved. The flanks of the proposed landform would be higher than the consented flanks, but the maximum height of the landform would remain as consented.*

- 5.3 The application includes a topographical survey of the site dated April 2016 which records the maximum (existing) upper level at 79.5m AOD. The landscape proposal drawing shows levels reduced to a maximum of between 77 and 78m AOD. For comparison purposes, the approved pre-settlement contours are a maximum of 76m AOD.
- 5.4 The planning statement puts the case for the proposed development:
- Bunkers Hill Quarry is an existing permitted minerals and waste site, now a former mineral extraction site which is being restored through importation of waste materials. The sites' restoration will ultimately

have a positive and enhancing effect on the openness of the Green Belt and represents restoration of previously used land.

- The restoration of the site including the retention of an additional volume of soil materials in site at the site, when re-graded to the proposed new restoration contours, will provide positive and beneficial aspects to outweigh any perceived harm to the openness of the green belt and to amenity. Retention of the additional soils on site will have an imperceptible or modest impact on the landscape and the openness of the Green Belt will not be compromised. The site is surrounded on two sites by mature woodland and hedgerows. The enhanced amenity tree and hedgerow planting agreed after consultation with the Hertfordshire Minerals Officer and Landscape Officer will positively contribute to the local landscape and enhance the adjacent woodlands. Restoration of the site to the revised landform is therefore not considered to be a material change that would impact the openness of the Green Belt, and when completed with restoration landscaping, screening and planting it will provide positive long term beneficial aspects to enhance the Green Belt setting and which will outweigh any perceptible harm.
- Conversely the alternative option of removal of the overtopped material would have significant short term impacts on the Green Belt while operations were carried out and would be in conflict with the objectives of Green Belt policy which recommends managing waste as close as practicable to its origin, which in this instance the waste is on site and would be retained on site.
- The retention of materials on site is a sustainable option which retains waste within the consented landfill site, reduces potential transport impacts, avoids unnecessary consumption of limited landfill voids at other sites and is a means of achieving final restoration of the site which will enhance the Green Belt in the vicinity of the site.
- The Bunkers Hill site is not widely visible due to the landform and vegetation cover in the surrounding area. Where views are available, the most elevated parts of the existing landform tend to be visible i.e. the areas of over-tipping. The proposed restoration landform would be lower in elevation than the existing, and would have the same maximum height as the consented landform, although the proposed flanks would generally be higher than the consented flanks due to the steepened gradients;
- The differences between the proposed development and the consented scheme would be apparent from few locations. The proposed landform would appear incrementally higher in some views, due to the placement of over-tipped material on the flanks of the landfill, increasing the height of the flanks. The change would be limited in scale and the make-up and characteristics of the views available would be maintained. In the long term the restored landform would be appear as a natural farmed hillside whose gradients are similar to adjacent slopes, and with areas of woodland cover similar to those that can be found in the surrounding area.
- It should also be recognised that while the assessment of visual effects has been made against a baseline including the consented landform, the visual changes resulting from the proposed development would

actually be experienced in the context of the reduction in height of the existing over-tipped landform i.e. the proposed landform would be lower than the landform that is currently present.

- The proposed development would have short-term temporary effect upon the openness of the Green Belt, deriving from the movement of vehicles required to re-profile the landform. This effect would cease following the restoration of the site to a combination of woodland and agriculture.
- Unlike the previous application the proposed development would not increase the maximum height of the consented landform. The gradients of the landform would be typical of those found in the surrounding landscape and the increased levels on the flanks of the landform would not materially reduce the openness of any of the views compared to the consented scheme. In this respect the proposed development would differ little from the consented scheme, and it can be concluded that once restored, there would be no material effect upon the openness of the Green Belt, or upon any of the five purposes of the Green Belt. The proposed re-profiling would occur for a shorter period than that required to achieve the consented scheme, and as such, the proposed development would represent an improvement in this regard.

## **6. Site History**

- 6.1 The site history is set out in full in the attached committee report for the previously refused scheme (3/0785-15) attached as Appendix V.

## **7. Statutory Consultation**

- 7.1 East Herts District Council has not responded to the consultation.
- 7.2 Bayford Parish Council objects to the application for the following reasons:
- The application is merely a re-hash of the unanimously refused planning application of April 2015 with the recommendation for enforcement to remove the significant overtipped waste on the site. We consider this enforcement should be made, else Hertfordshire County Council will be condoning illegal tipping literally in our back yard.
  - We do not consider that there is any justification both in principle and from the Agricultural Assessment provided for any changes to the landscape that requires any form of landraise for improved agricultural performance other than that which may have come about through the inadequate management and control of the operator. We note the assessment was carried out after the original refusal when the issue was first raised. We consider as well that clarification should be sought as to what land was assessed as there are anomalies that would imply that this assessment has not been solely carried out in relation to the application site.
  - There are various discrepancies with the Planning Support Statement not least of which includes comments in relation to the statement of need for restoration soils with no indication of how these will be

sourced (as via current methods this will mean yet more waste imported to the site) contradicted elsewhere in the statement that recovered will be made from previously deposited soils. This is at best ambiguity or deliberate misleading in the operation's intentions.

- The Parish Council strongly object to the Operator implying that there are appropriate dust mitigation schemes in place when it is known that there are breaches of conditions in relation to both these impacts.
- The Parish Council strongly object to the Operator's statement that a drainage management system is installed when it is known that this scheme was never submitted and is a breach of consent.
- The Parish Council questions what the 80,000m<sup>3</sup> of 'unsuitable' material is what the operator intends to do with that material.
- The applicant has provided no indication of the timescales associated with the application and the final restoration date.
- The parish Council remains sceptical that the operation would have any intention to implement the proposed landscape plan submitted as part of the application, due to its inability to implement or comply with numerous conditions of permission that has been requested of it during its management of the site.
- The Flood Risk Assessment submitted with the application is a draft version and the Parish Council would question the validity of the date provided.
- The Parish Council recommends the immediate area is surveyed to establish the exact amount of materials on this site over and above planning consent, its commercial value and approved enforcement followed through immediately.

7.3 The Environment Agency has no objection but offers the following permit advice:

- This development must comply with the Environmental Permitting (England and Wales) Regulations 2010 (as amended) and will require an Environmental Permit for Landfill issued by the Environment Agency. The application for the Environmental Permit will need to demonstrate the development will comply with the Landfill Directive and relevant sector guidance and will not pose a risk to the environment or human health. The removal of any waste must be recovered or disposed under the duty of care requirements to a suitable permitted facility.

7.4 The Highway Authority notes the proposed development will not result in a significant change to the amount of traffic generated by the development permitted under 3/2279-13, therefore provided that Condition 1 (HGV movements) of 3/2279-13 remains in force the Highway Authority has no objection.

#### Third party representations

7.5 The application has been advertised by press notice, site notice and notification letters sent to 100 individual properties within 250m of the

site. There have been 21 letters of objection raising the following points:

#### Unauthorised waste disposal

- The decision to import such significant volumes of waste was taken in the full knowledge of the approved pre-settlement contours. This shows disregard for planning controls;
- The justification for importing material was to generate restoration soils. However the low topsoil content of the imported material is the cause of the over tip; The Operators actions appear to be quite deliberate and for profit;
- The Operator has disposed of waste outside of application site boundary raising the levels of adjacent land. This does not have planning permission. The Operator must be made to correct the unauthorised tipping on adjoining land;
- The Operator has failed to remove the excess material. This is in breach of a decision of the Development Control Committee in June 2015;
- Enforcement action should be taken to remove the excess material, which should never have been taken onto the site in the first place;
- The County Council is being asked to condone illegal tipping;
- Granting this application would set a dangerous precedent that unauthorised tipping is allowed in Hertfordshire;
- The County Council should fully investigate the overtipping and insist upon carrying out a new survey;
- The Operator has never put in place any noise or dust mitigation controls. There is much anecdotal evidence that dust in Bunker's Hill towards the houses at Broad Green has been a nuisance for some time;
- The Operator is in breach of conditions for failure to submit noise and dust management schemes;
- The Operator has failed to comply with planning conditions in the past. Residents nor the County Council can be confident the company will comply with any approved plans or conditions in future;
- Quarry companies should be allowed to profit from breaking rules and conditions
- It would be wrong to allow the Operator to dictate any terms for the completion of this site due to lack of management and inability to comply with conditions;

#### Revision of previous scheme

- The current application is the second retrospective application to retain excess material and is very similar to the application refused last year, albeit with revised landscaping proposals;
- The current application proposes a lower final contour but the proposed contour is still far in excess of the approved pre-settlement contours;



### Delay

- Current and previous applications have only served to delay restoration;
- The County Council must stand firm and commence enforcement proceedings to avoid setting a precedent for other sites/ operators in Hertfordshire;
- The Operator appears to be making a series of applications simply to delay restoration;
- The Operator appears to want to delay final closure of Bunkers in order to justify retaining the processing plant as long as possible. If granted this would inevitably lead to an application to extend timescales for restoration and to retain the processing plant site beyond the current end date. The County Council should resist such a piecemeal approach;

### Afteruse

- The County Council should question the validity of the Agricultural Assessment which is given as the primary reason for retention of waste on site, however there are discrepancies in the information provided suggesting this is a generic document that was not specifically carried out for the site in question;
- There is no justification for "agricultural improvement". This land, with its original contours, was successfully farmed previously. Any problems are the result of poor working practices and waste acceptance criteria. To use this as an excuse to justify the excessive over-tip is wrong;

### Sustainability

- The sustainability rationale behind the scheme is a misrepresentation of the purposes of environmental management and legislation, which is to protect the environment, comply with the law and prevent pollution. The removal of the illegal tipping outside of consented areas could be the most sustainable option;

### Alternatives

- The County Council do not know where this excess material should be taken to; clearly none should be taken to Water Hall;
- The operator should be faced with transporting all the overtipped material to another location that does have planning permission;
- There is no valid reason to permit the additional material. There is no benefit to the landscape, no agricultural benefit and no benefit to the local community from the additional material.

### Highways

- The County Council in its role as Highway Authority should assess the impact on the road caused by lorries associated with the operation.

Anyone can see the damage caused to verges, kerbs and the carriageway surface itself by the excessive number of HGV's that are associated with all the quarry operations plus the danger of collisions with other, normal traffic.

- We are already plagued by excessive lorry traffic on our country lanes which is dangerous and a menace to local drivers. The roads themselves have been severely damaged with pot holes and dust everywhere. It's time to stop.

#### 7.6 The University of Hertfordshire objected on the following grounds

- Bayfordbury Observatory is one of the UK's leading astronomical and atmospheric observatories providing undergraduate teaching and research of national and international importance. The key attribute of Bayfordbury as a location for the Observatory is its rural character, far from urban or industrial areas, yet well positioned to provide the key reference point against which to monitor London's atmosphere.
- The work undertaken by the Observatory is of international significance and depends upon existing air quality to be maintained in order to continue successful research activities. The proposed development has the potential to create dust which could severely damage the activities at Bayfordbury Observatory as they currently exist.
- From reviewing the current application documentation, we understand Bunkers has been overtopped by approximately 200,000-280.000m<sup>3</sup> of material, however we would suggest this figure should be clarified.
- In light of this proposal and the creation of dust as a result of moving material within the site, we are surprised to see little reference to dust mitigation/ management in relation to sensitive receptors. This was a significant factor in the previous Appeals and therefore should be given due consideration as part of this application.
- We respectfully request this concern to be taken seriously by Hertfordshire County Council and suggest there is currently inadequate information in relation to Air Quality / Dust Management to assess the impact on sensitive receptors.

## 8. Development Plan

- 8.1 The development plan for the area comprises the East Herts Local Plan Second Review 2007, The Hertfordshire Minerals Local Plan Review 2007; Hertfordshire Waste Development Framework: Core Strategy & Development Management Policies: November 2012.

### East Herts Local Plan

SD1 Making Development More Sustainable

GBC1 Appropriate Development in the Green Belt

GBC14 Landscape Character

TR2 Access to New Developments

TR3 Transport Assessments

TR20 Development Generating Traffic on Rural Roads

ENV2 Landscaping  
ENV10 Planting New Trees  
ENV11 Protection of Existing Hedgerows and Trees  
ENV21 Surface Water Drainage  
ENV24 Noise Generating Development

Hertfordshire Minerals Local Plan Review (Adopted March 2007);

9 – Contribution to biodiversity  
12 - Landscape  
13 – Reclamation  
14 - Afteruse

Hertfordshire Waste Core Strategy & Development Management  
Policies: Adopted November 2012

4: Landfill and landraise  
6: Green Belt  
7: General criteria for assessing planning applications outside of  
identified locations  
11: General criteria for assessing waste planning applications  
12: Sustainable design, construction and demolition  
13: Road transport & traffic  
14: Buffer Zones  
15: Rights of Way  
16: Soil, Air and Water  
19: Protection and Mitigation

National Planning Policy Framework (November 2012)

9 – Protecting Green Belt Land  
11 – Conserving and enhancing the natural environment  
13 - Facilitating the sustainable use of minerals

Other policy considerations

Hertfordshire Landscape Character Assessment 2001

**9. Planning Issues**

9.1 The main planning issues relate to:

- Green Belt
- Landfill and Landraise
- Landscape
- Restoration and Afteruse
- Highways
- Amenity – noise and air quality

## Green Belt

- 9.2 The NPPF identifies mineral extraction and engineering operations as not inappropriate in the Green Belt, provided it does not conflict with the purposes of including land within the Green Belt and where openness would be preserved (Paragraph 90).
- 9.3 Policy 6 of the Hertfordshire Waste Core Strategy states new or expanded waste management facilities in the Green Belt will be required to demonstrate very special circumstances sufficient to outweigh the harm to the Green Belt together with any other harm identified.
- 9.4 The disposal of waste in the Green Belt is regarded as inappropriate development. The restoration of former mineral workings should seek to preserve the openness of the Green Belt.
- 9.5 The planning statement comments in respect of the Green Belt:
- the sites restoration will ultimately have a positive and enhancing effect on the openness of the Green Belt and represents restoration of previously used land;
  - the restoration of the site including the retention of an additional volume of soil materials at the site, when re-graded to the proposed new restoration contours, will provide positive and beneficial aspects to outweigh any perceived harm to the openness of the green belt and to amenity;
  - retention of the additional soils on site will have an imperceptible or modest impact on the landscape and the openness of the Green Belt will not be compromised
  - restoration of the site to the revised landform is not considered to be a material change that would impact the openness of the Green Belt, and when completed with restoration landscaping, screening and planting it will provide positive long term beneficial aspects to enhance the Green Belt setting and which will outweigh any perceptible harm;
  - the alternative option of removal of the overtipped material would have significant short term impacts on the Green Belt while operations were carried out and would be in conflict with the objectives of Green Belt policy which recommends managing waste as close as practicable to its origin;
  - the retention of materials on site is a sustainable option which retains waste within the consented landfill site, reduces potential transport impacts, avoids unnecessary consumption of limited landfill voids at other sites and is a means of achieving final restoration of the site which will enhance the Green Belt in the vicinity of the site;
  - the proposed development would have short-term temporary effect upon the openness of the Green Belt, deriving from the movement of vehicles required to re-profile the landform. This effect would cease following the restoration of the site to a combination of woodland and agriculture;

- the proposed development would differ little from the consented scheme, and it can be concluded that once restored, there would be no material effect upon the openness of the Green Belt, or upon any of the five purposes of the Green Belt
- 9.6 The claim that retention of the excess material on site would have a positive and enhancing effect on the openness of the Green Belt cannot be accepted. The proposed development would result in significant landraising and have a significant adverse impact upon openness in this part of the River Lea Valley. The proposal would therefore conflict with the important aspects of Green Belt policy.
- 9.7 The statement 'when re-graded to the proposed new restoration contours, will provide positive and beneficial aspects to outweigh any perceived harm to the openness of the green belt and to amenity' cannot be supported because: (a) the harm is real, not perceived, (b) the harm is significant, (c) there are no positive or beneficial aspects to the proposed landform.
- 9.8 The statement 'retention of the additional soils on site will have an imperceptible or modest impact on the landscape and the openness of the Green Belt will not be compromised' cannot be substantiated. The proposal involves significant landraising and would clearly compromise the openness of the Green Belt. The reference to retention of additional soils is misleading. The Operator has disposed of significant volumes of waste at the site. The deposited imported material is mainly clays or excavation waste and not a suitable soil. The application acknowledges that additional topsoil will be required. The openness of the Green Belt would not be compromised only by the removal of the excess waste.
- 9.9 The application claims that the revised landform is not a material change that would impact the openness of the Green Belt. The proposed landform is clearly a material change in terms of its mass and shape, significantly larger and with steeper slopes. The final landform would appear out of keeping with the gentler slopes of the River Lea Valley. It would not be possible to fully mitigate the impact by woodland and hedgerow planting.
- 9.10 The alternative option of removing the excess material is not without its impacts, and it is acknowledged that there would be some disruption in the short term, not dissimilar to the disruption caused by the Operator in bringing the material to the site in the first place. However there are alternative sites with planning permission to accept inert waste within 5-10 miles of the site. The alternative option of removing the material would not cause significant conflict with the principle of treating waste as close as practicable to its origin.
- 9.11 It is an incorrect statement to say the proposed development would differ little from the consented scheme, when clearly it would have a far greater negative visual impact. It is also incorrect to say that the

restored site would cause no material effect upon the openness of the Green Belt, or upon any of the five purposes of the Green Belt, when clearly the proposed development would cause significant permanent harm to the Green Belt and conflict with the purposes of the Green Belt.

- 9.12 The retention of such a significant volume of material on site would be allowing inappropriate development in the Green Belt on a significant scale, cause permanent harm the openness of the Green Belt, and adversely affect the landscape character of the area. There are no very special circumstances apparent or other material considerations sufficient to clearly outweigh the harm.

#### Landfill and landraise

- 9.13 Minerals Policy 15 (Landfill) of the Hertfordshire Minerals Local Plan states reclamation of mineral workings with waste will only be permitted where it can be demonstrated that the disposal of waste is necessary to achieve the restoration proposals.
- 9.14 Policy 4 (Landfill and Landraise) of the Hertfordshire Waste Core Strategy 2012 states the disposal of waste and restoration with inert material by raising the level of the land will only be granted where:
- it would assist the preparation of land for other approved development proposals;
  - the land is derelict or degraded;
  - it would result in significant other environmental benefit;
  - it can be demonstrated that it is necessary to achieve restoration of mineral voids; and
  - it can be demonstrated that it will not give rise to unacceptable implications to human health, amenity, landscape and the environment.
- 9.15 The application proposes the retention of 200,000-280,000m<sup>3</sup> of material already on site whilst at the same time suggesting that 80,000m<sup>3</sup> of 'unsuitable material' could be removed. The application does not give reasons for the material being unsuitable or explain where it would be removed to. The application fails to demonstrate that the proposed contours could be achieved without the need to remove additional material from site.
- 9.16 The application does not accurately record the imbalance of material on site i.e. the excess of material above the approved pre-settlement contours. The topographical survey of April 2015 records over 390,000m<sup>3</sup> of material above the pre-settlement contours. The application proposes 200,000-280,000m<sup>3</sup> of material would be retained without accounting for the remaining balance. Officers are not convinced that the proposed landform could be achieved without removing more material from the site.
- 9.17 The approved pre-settlement contours allow for some level of waste importation and landraising. However, the retention of excess material

is not necessary in order to achieve a satisfactory restoration of the site. The proposal is considered to contrary to Minerals Policy 15 of the Hertfordshire Minerals Local Plan Review 2007.

### Landscape

- 9.18 Minerals Policy 12 (Landscape) of the Hertfordshire Minerals Local Plan 2007 states development proposals will be required to take account of existing and where appropriate historic landscape character and maintain its distinctiveness. Development proposals will be expected to:
- i) respect landscape character both during operations and in proposals for reclamation
  - ii) ensure that any distinctive landscape features area protected from the impact of development;
  - iii) be accompanied by landscape conservation, design and management measures that both strengthen the character and enhance the condition of the landscape.

The County Council will have regard to the visual impact of proposals (including any proposed mitigation measures to minimise visual or other intrusion) and sensitive land uses, including areas of public access.

- 9.19 The planning statement claims:

- The Bunkers Hill site is not widely visible due to the landform and vegetation cover in the surrounding area. Where views are available, the most elevated parts of the existing landform tend to be visible i.e. the areas of over-tipping. The proposed restoration landform would be lower in elevation than the existing, and would have the same maximum height as the consented landform;
- The differences between the proposed development and the consented scheme would be apparent from few locations;
- In the long term the restored landform would be appear as a natural farmed hillside whose gradients are similar to adjacent slopes, and with areas of woodland cover similar to those that can be found in the surrounding area
- The gradients of the landform would be typical of those found in the surrounding landscape and the increased levels on the flanks of the landform would not materially reduce the openness of any of the views compared to the consented scheme.

- 9.20 The Landscape and Visual Impact Assessment suggests the proposed development would create a landform that:

- is suitable for arable farming;
- does not increase the overall maximum height of the landform compared with the consented scheme;
- reflects the gradients of adjacent slopes, surrounding the site; and

- represents an incremental change to the consented landform when viewed from the outside.
- 9.21 The Landscape and Visual Impact Assessment claims that ‘the maximum height of the proposed landform would not exceed that of the consented landform, with the top contour for both schemes being 77m AOD. The statement is misleading, and it is not the case. The upper contour of the approved pre-settlement contour is 76m AOD over a very small part of the site adjoining the southern boundary. The upper contour of the proposed landform is 77m AOD but extends at that elevation for approximately 150m across the site creating a flat top platform, rather than a rounded shape hillside provided for by the approved pre-settlement contours.
- 9.22 It is estimated that approximately 400m<sup>2</sup> of land is above 76m AOD in the approved pre-settlement scheme. It is estimated that well over 1 hectare of the proposed landform would be above 77m. The 78m contour is close to the southern edge of the site suggesting that parts of the proposed landform would be above 77m.
- 9.23 The high steep sided landform would not be in keeping with the gentler slopes of this part of the valley, which would have existed prior to mineral extraction, and would have a negative impact upon the local landscape character.
- 9.24 It would not be possible to mitigate the negative landscape impacts of the landform by woodland planting to disguise the steeper slopes. The only acceptable resolution in landscape terms would be a significant reduction in the mass of the landform by removing the excess material. The harm could not be mitigated by condition.
- 9.25 The proposed landform would not be in keeping with the existing landscape and would not provide suitable measures to strengthen or enhance the condition of the landscape, contrary to Minerals Policy 12 (Landscape) of the Hertfordshire Minerals Local Plan.

#### Restoration and Afteruse

- 9.26 One of the justifications behind the application is the Operators wish to use the restored land for agricultural production, whereas the approved restoration scheme was intended to be for grazing. An agricultural afteruse would tend to require better soils, drainage and more intensive management to sustain agricultural production.
- 9.27 The application includes an Agricultural Suitability Assessment which identifies the characteristics of the soils and suggests ways in which the land could be improved:



- Original soils would comprise a mix of (a) Lime-rich loamy and clayey soils with impeded drainage and (b) free draining slightly acid loamy soils;
- The site is being restored using imported reclaimed soils;
- The topsoil and subsoil layers appear consistent across the site;
- The soils observed at the site, could be considered largely suitable for agricultural use;
- The key limitations of the restored soil structure for arable and grassland uses are:
  - (a) the topsoil profile has a higher silt and loam content and has a significant quantity of small stones in the profile. These characteristics may cause seasonal drought particularly during spring and summer when cereal crops are at key growth stages; and
  - (b) the clay subsoil could create an impermeable layer restricting root penetration. Wheat and other cereal crops typically root to at least 1m in order to reach moisture throughout the growth cycle. At 50cm depth, the subsoil could prevent roots achieving the optimum depth which could heighten the effects of droughtiness. Options include the use a subsoiler or ripper to break up compacted soils during restoration, and, establish a longer term crop such as ryegrass to create a greater root system, which will improve rooting for subsequent arable crops.
- The nutrient analysis confirms the chemical composition of the restored soils limits the potential for agricultural production. The most significant issue is that both the topsoil and subsoils have a pH of above 8.0 making the soils very alkali. Alkali soils can cause vital nutrients to become unavailable to growing crops, commonly termed 'locking up'. Treatments include sulphur applications which become Sulphuric Acid when digested by soil bacteria and replacing locked up nutrients by applying soluble nutrients to growing crops.
- The restoration scheme does not include a field drainage system. Drainage would be provided by a ditch system draining to the River Lea. The system would remove excess water from soils but would increase the risk of soil erosion through run-off. The key to prevent run-off is through the use of deep rooting plants across the whole site. Hedgerows and trees are arguably the most effective, although slow growing and therefore appropriate agricultural crops should be included to reduce the risk in the short to medium term.

9.28 The assessment concludes:

- The site at Bunkers is not a natural landscape, having been significantly altered by past industrial processes. It is therefore to be expected that there would be limitations to the use of the site for agriculture. Perhaps the most significant limitation is the soil structure, which although not unsuitable for cropping, will require careful

management and patience to become an economically viable agricultural unit.

- An appropriate planting scheme for boundary hedges and native trees should be considered to further improve soil structure and drainage and help to prevent soil erosion. The removal of grass in favour of arable cropping should only take place on more level areas of the site once grass margins, trees and hedges have become established.
- 9.29 The assessment identifies that reclaimed soils are not ideally suited to agricultural production, in terms of nutrients or composition and are susceptible to droughtiness and erosion from surface water run-off. Whilst it might be possible to address some of the issues through the application of soluble solutions careful long-term management would also be required. It would not be possible to plant cereal crops for a number of years, and steeper slopes would need to be planted with grass crops, hedges or trees to minimise soil erosion.
- 9.30 There are clearly a number of constraints to the potential of the land to be used for agriculture, not least that the existing soils are not of sufficient quality.
- 9.31 The landraising as a result of the retention of excess material on site does not improve the condition of the land for agriculture. The steeper slopes would reduce the area available for cereal crop production and it is questionable whether the restored site would be a viable agricultural unit, individually or as part of a larger holding as part of the Water Hall complex.
- 9.32 The proposed agricultural afteruse appears marginal and would not be assisted by the retention of the excess material on site.
- 9.33 The application does not demonstrate that a reclamation scheme would achieve a sustainable afteruse, contrary to the objectives of Minerals Policy 14 (Afteruse) of the Hertfordshire Minerals Local Plan Review 2007.

### Transport

- 9.34 The Lower Hatfield Road has a number of industrial uses, including:
- Water Hall Quarry complex;
  - Aggregates Industries Asphalt Plant;
  - Bedwell Park Quarry
- 9.35 Of these, Water Hall has historically been the biggest generator of HGV movements. The road between Water Hall and Holwell Lane has been damaged by HGVs mounting kerbs and running up banks in order to pass one another.

- 9.36 Condition 1 of 3/2279-13 restricts the number of HGV movements to 400 per day (200 in/ 200 out) Monday to Friday and 200 per day (100 in/ 100 out) on Saturdays between 07:00 and 12:30pm on Saturdays.
- 9.37 The high number of HGV movements has been accepted in the past in order to provide the Operator with flexibility to enable the site to be restored at earliest opportunity. In the longer term such high levels of HGV traffic on the Lower Hatfield Road may not be acceptable to the local community
- 9.38 The NPPF (Paragraph 32) states 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'.
- 9.39 The Highway Authority raises no objection noting that the proposal would not increase the number of HGV movements and the development could be completed by the scheduled date.
- 9.40 If the Operator were required to remove the excess material from site and in so doing generate additional HGV movements on the Lower Hatfield Road, so long as it could be achieved without exceeding the permitted HGV movements and without extending the lifetime of the operation it is anticipated that the Highway Authority would be unlikely to object.

#### Residential amenity

- 9.41 The potential impacts are anticipated to be in terms of noise, disturbance from vehicles, and air quality
- 9.42 Minerals Policy 18 of the Hertfordshire Minerals Local Plan Review 2007 requires proposals to demonstrate that there would be no significant noise intrusion or degradation of air quality arising from the development.
- 9.43 The current planning permission for the site requires the operator to submit schemes for the management of noise and dust from the earthmoving operations. These matters remain outstanding and are recorded as a breach of planning control.
- 9.44 The importation of waste to the site has resulted in noise, dust and general disturbance to residents of the Lower Hatfield Road, and particularly properties near the site entrance.
- 9.45 The restoration of mineral voids will have some negative impacts on local communities in terms of noise, dust and general disruption from earthmoving and lorry movements. The removal of the excess material from the site would cause further disruption to residents and users of the Lower Hatfield Road. However, the site still requires final restoration and some level of disruption is inevitable.

9.46 Final restoration can be achieved within a reasonably short timeframe i.e. by the scheduled completion date of December 2017. It will be necessary to manage operations through best practice to minimise noise and dust. Subject to the proper controls being in place during restoration, the impacts in terms of noise and air quality impacts should be at an acceptable level.

## 10. Conclusion

10.1 The proposed development would provide for an alternative restoration of Bunkers Hill Quarry involving the retention of a significant volume of excess material on site to be included as part of the final landform.

10.2 The proposed scheme would result in a number of unacceptable impacts upon the local environment, and therefore it is recommended that planning permission should be refused for the following reasons:

- The proposal constitutes inappropriate development in the Green Belt. There are no very special circumstances apparent to outweigh the harm to the Green Belt and other harm identified. The proposal is thereby contrary to the provisions of the NPPF (Paragraphs 87 and 88), Policy 6 Green Belt of the Hertfordshire Waste Development Framework: Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026 Adopted November 2012, and Policy GBC1 of the East Herts Local Plan Second Review 2007.
- The proposed development by reason of the scale and mass of the landform would harm the openness of the Green Belt. The essential characteristics of Green Belts are their openness and their permanence (NPPF, Paragraph 79). The proposal would thereby be contrary to the provisions of the NPPF and of Policy GBC1 of the East Herts Local Plan Second Review 2007.
- The proposed landform would be out of character with the landscape character area contrary to Minerals Policy 12 (Landscape) of the Hertfordshire Minerals Local Plan Review 2007.
- The retention of the excess material on site is unnecessary for the appropriate restoration and afteruse of the site. The proposal is thereby contrary to Minerals Policy 15 (Landfill) of the Hertfordshire Minerals Local Plan Review 2007 and Policy 4 (Landfill and Landraise) of the Hertfordshire Waste Development Framework: Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026 Adopted November 2012.
- The application fails to demonstrate that a sustainable agricultural afteruse would be achieved, or to provide sufficient information to cover the aftercare period. The proposal would be contrary to Minerals Policy

13 of the Hertfordshire Minerals Local Plan Review 2007, and Policy 11 of the Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026.