

**HERTFORDSHIRE COUNTY COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE  
THURSDAY 23 FEBRUARY 2017 AT 10.00AM**

**DISTRICT: EAST HERTS DISTRICT**

Agenda Item  
No.

**1**

**PLANNING APPLICATIONS (3 / 2533-16 and 3/2534-16 CM0951) FOR :**

**APPLICATION 1: AN EXTENSION OF THE AREA REQUIRED FOR THE CONSTRUCTION OF AN AGRICULTURAL RESERVOIR (PERMISSION 3/1304-13) TO ENABLE STOCKPILING OF THE EXCAVATED MATERIAL TOGETHER WITH ENVIRONMENTAL BUNDS, PROCESSING PLANT, WATER MANAGEMENT PONDS AND ANCILLARY ACTIVITIES FOR THE PERIOD OF CONSTRUCTION**

**APPLICATION 2: A S.73 APPLICATION TO REMOVE CONDITION 8 (NO PROCESSING ON SITE) OF PERMISSION 3/1304-13 CM0951**

*Report of the Chief Executive and Director of Environment*

Contact: Felicity J Hart      Tel: 01992 556256

Local Member: Graham McAndrew

**1. Purpose of Report**

- 1.1 To consider application nos. 3/2533-16 and 3/2534-16 (CM0951)
- 1.2 These applications have been submitted in relation to an adjacent piece of land situated to the north of an agricultural reservoir currently under construction.
- 1.3 Note: this is a joint report that covers issues relating to both applications.

## **2. Summary**

2.1 These applications have been submitted in relation to a piece of land adjacent to a site currently under construction creating an agricultural reservoir. Permission was granted in 2013 for the construction of the 44 million gallon agricultural reservoir which would entail the removal of up to 200,000 cubic metres of sand, gravel and soil. This permission was time limited to be completed within 5 years from commencement. Development commenced in September 2016. The permission also required that there should be no processing of mineral on site and that all material should be removed from the site as raised.

2.2 These applications have been submitted in order to propose the use of an adjacent area of land for stockpiling of the excavated material, a plant site to enable treatment, together with the creation of a silt and water management area. The silt pond area would entail some further limited mineral extraction which would be added to the stockpiles.

## **3. Conclusion**

3.1 It is concluded that the proposed development (both applications) should be refused planning permission for the following reasons:

1. The proposal constitutes inappropriate development in the Green Belt which would affect openness, for which no very special circumstances have been demonstrated that would override harm together with harm to the Green Belt. The proposed development is therefore contrary to the NPPF and East Herts Local Plan Policy GBC1. The development would cause substantial harm to the Green Belt by intrusion into the countryside resulting in its loss of openness and the development would fail to conserve the natural environment that surrounds the site.
2. The application has not demonstrated that the site will not increase flood risk to the site and elsewhere, nor that it can provide appropriate sustainable drainage techniques. Therefore, the proposal is contrary to the NPPF and Policy 17 of the Hertfordshire Minerals Local Plan Review.
3. The development is adjacent to an Ancient Woodland and the proposal has not demonstrated that it would not result in deterioration of an irreplaceable habitat and it is considered that the need for, or the benefits of, the development in that location do not outweigh the impacts that could occur. The proposal is therefore contrary to the NPPF and Policy 17 of the Hertfordshire Minerals Local Plan Review.

#### **4. Description of the site and existing and proposed development**

- 4.1 The application site comprises an area of land situated to the north of the previous planning application site which has planning permission for the construction of an agricultural reservoir. This development has commenced and the void has been partially created.
- 4.2 Condition 8 of the original agricultural reservoir permission states that: "There shall be no processing on site and that all material shall be moved off site for processing." This application (no.3/1304-13) proposes that an adjacent area of land to the north would be used for stockpiling and treatment.
- 4.3 Hence two parallel planning applications have been submitted. Application 1 for an extension of the area required for the construction of an agricultural reservoir [permission 3/1304-13 (CM0951)] to enable stockpiling of the excavated material together with treatment and ancillary activities for the period of construction. Application 2 is a S.73 application to remove Condition 8 (no processing on site) of permission 3/1304-13 (CM0951).
- 4.4 Planning permission was granted in 2014 for the extraction and removal of materials (sand, gravel and soils) to enable the construction of a 44 million gallon agricultural reservoir required for farm irrigation at Thorley Hall Farm. The proposed reservoir requires a substantial quantity of material to be removed to create the necessary depth of water storage volume.
- 4.5 The applicant has reviewed the scheme and has now decided that due to the landform and the underlying nature of the materials that an additional area will be necessary to provide stock piling capacity and a treatment plant. The applicant considers that treating the material on site is a more sustainable option as there are sometimes difficulties finding quarries to take the material to as many have a no importation condition on their own planning permissions.
- 4.6 It is proposed that the application site would contain stockpiles of material, and space for a low profile semi mobile modular treatment plant. The overall height of the treatment plant including lighting would be 8.3m. Some limited mineral extraction is also proposed which is proposed to create a silt and water management area. Water required for processing would be stored in a series of ponds in the east of the site. Earthworks would be required to construct environmental bunds. Additionally there would be ancillary buildings comprising a container style mess facility and a generator unit.
- 4.7 There would be no changes to the existing hours of operation at the site and no changes to lorry movements although the applicant states that if this application is approved then there could be a 10% reduction in lorry movements.

## **5 Planning History**

- 5.1 3/1304-13 CM0951 Planning permission granted for extraction and removal of materials (sand, gravel & soils) to enable the construction of a 44 million gallon agricultural reservoir for farm irrigation.

## **6 Consultations**

- 6.1 East Herts District Council – Environmental Health comments that in principle we have no objections. However, I make the following observations.

### **Application 1**

- 6.2 The current permission includes a condition (Number 9) which limits noise emanating from the site. I believe that this could be improved using the following conditions.

- All mobile site based plant shall be fitted with broadband reversing beepers rather than single pitched.
- Site attributable noise when measured at noise sensitive properties shall not exceed the background level by more than 10dB(A). The only exception to which is that arising from any temporary operations (soil stripping, bund formation and removal and final restoration) where such shall not exceed 70dBLAeq between 08.000 and 18.00hrs Monday to Friday. Temporary operations shall not exceed a period of 8 weeks in any calendar year.
- No later than 3 months after the date of this permission, a Noise Monitoring Scheme ('the Scheme') shall be submitted for the written approval of the Mineral Planning Authority. The Scheme shall include details of:
  - a) The noise monitoring equipment;
  - b) The precise noise monitoring locations;
  - c) The frequency of measurements;
  - d) The presentation of results; and,
  - e) The procedures to be adopted in the event that noise levels exceed the limits approved or in the event that complaints are received.

- 6.3 The noise management scheme shall be reviewed at least annually, take into consideration any changes or proposed working arrangements to ensure that all monitoring is appropriate and considers the working practices in place.

- 6.4 I'd also recommend that Condition 7 (dust) and Condition 18 (hours) are replicated on any further permission.

## **Application 2**

All known environmental impacts would be controlled through the above recommendations.

- 6.5 East Herts District Council (Planning Authority) considers that the applications represent an inappropriate form of development in the Green belt and, by definition is therefore harmful. The proposed development, although for a limited period of time, will result in a clear loss of openness, which is a fundamental aim of green belt policy and will conflict with the purposes of including land in the Green belt. EHDC draws the County Council's attention the allocation of the site to the north of the application site for development in draft Policy BISH5 of the pre-submission district plan.

- 6.6 Woodland Trust

As the UK's leading woodland conservation charity, the Woodland Trust aims to protect native woods, trees and their wildlife for the future. Through the restoration and improvement of woodland biodiversity and increased awareness and understanding of important woodland, these aims can be achieved. We manage over 1,000 sites covering around 24,000 hectares (59,000 acres) and have 500,000 members and supporters.

The Trust **objects** to both of the aforementioned applications on the grounds that these proposals will result in the damage of ancient woodland. Thorley Wood (grid reference: TL482185), which borders the site, is listed on Natural England's Ancient Woodland Inventory as ancient semi-natural woodland (ASNW).

Ancient woodland is defined as an irreplaceable natural resource that has remained constantly wooded since at least AD1600. The length at which ancient woodland takes to develop and evolve (centuries, even millennia), coupled with the vital links it creates between plants, animals and soils accentuate its irreplaceable status. The varied and unique habitats ancient woodland sites provide for many of the UK's most important and threatened fauna and flora species cannot be recreated and cannot afford to be damaged or lost.

National Planning Policy Framework paragraph 118 states that "planning permission should be refused for development resulting in the **loss or deterioration of irreplaceable habitats, including ancient woodland** and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss."

Natural England's Standing Advice on Ancient Woodland (2015) states: "Mitigation measures will depend on the development but could include:

· leaving an appropriate buffer zone of semi-natural habitat between the development and the ancient woodland or tree (depending on the size of development, a minimum buffer should be at least 15 metres)”

For buffers to be effective they need to be designed on a case by case basis. The 15m buffer referred to in the Standing Advice was in relation to a housing development. There is no one size fits all approach to buffer design and each buffer will be unique to its location and the functions it is to fulfil. A good understanding of what needs to be protected is needed before any buffer construction takes place. Furthermore, once a buffer is constructed its effectiveness needs to be monitored and assessed and the results made available so that subsequent buffer designs can be amended and improved.

This buffer should be made up of at least 50% native tree cover which should be allowed to develop into a semi natural habitat. Around the trees of high value it should be maintained as scrub or grassland so that younger tree competition does not establish and compromise their crowns.

These measures will help to protect the ancient woodland from the impacts of the adjacent development and are in line with the recommendations in the NPPF. In addition, a larger buffer will also increase the available habitat onsite helping to contribute to an increase in biodiversity locally as well as mitigating the impacts of this development.

The buffer should be planted before construction commences on site. It is vital that the fence, referenced in the application, is put in place during construction to ensure that the buffer area does not suffer from encroachment of construction vehicles/stockpiles etc.

Ancient woodland is an irreplaceable habitat, once lost it is gone forever. The Woodland Trust maintains an objection to these planning applications as it believes that the processing and stockpiling of minerals adjacent to Thorley Wood, will damage this recognised ancient woodland.

Dust, light, noise and vehicle emission pollution are of particular concern as long as the activities are taking place in the proposed area.

Should consent be granted on the above applications in their current form, against our recommendations, the Trust urges the council to act on the above advice regarding a 30m planted buffer zone and makes this a condition of any planning consent.

6.7 Environment Agency No comment received.

6.8 Hertfordshire County Council – as Highway Authority does not wish to restrict the grant of permission and provides the following advice note.

APPLICATION 2. This seeks permission for the removal of Condition 8 (No processing of material on site) from permission 3/1304-13 and covers an area to the south of Application 1 of approximately 15.8ha within the curtilage of Thorley Hall Farm. Thorley Hall Farm is located to

the South of Bishop's Stortford and is to the South West of St James Way (A1184).

Planning permission was granted on the 13th May 2014 (ref. 3/1304-13) for the extraction and removal of materials (sand, gravel and soil) to enable the construction of a 44 million gallon agricultural reservoir for farm irrigation at Thorley Hall Farm. This application did not allow for the processing of the excavated material and only allowed the material to be exported off-site in its 'as dug' condition. These proposed applications would, if granted, enable the material to be processed on site and would expand the site area to allow for the placing of environmental bunds, processing plant and water management ponds.

Within the new area proposed to be created for Application 1, the principal stock area would be in the centre / west close to the internal access road. The processing plant would be located centrally and the water treatments ponds would be located on the east side and would require the excavation of approximately 20,000m<sup>3</sup> of material to construct, which would be added to the total amount of material to be processed and exported. A 'container' style temporary building is also proposed for welfare facilities and it is proposed that the site would be surrounded by temporary environmental bunds of between 3m and 5m. It is intended that the majority of the 200,000m<sup>3</sup> of material to be excavated for the creation of the agricultural reservoir would be processed on the adjacent application site subject of Application 1, and then exported off site. All works at the site are proposed to be completed within 5 years resulting in the removal of all the temporary structures and restoration and landscaping of the agricultural reservoir.

The proposed hours of operation would be 0700 – 1800 hours Monday to Friday with no operations occurring on Saturday, Sunday or Public / Bank Holidays. 100 HGV movements per day are proposed (50 in, 50 out). This number is the same as approved on the previous application. Access to the site would be achieved from St James Way (A1184).

#### ADVICE NOTE:

The amount of HGV movements generated by this proposal will be as approved by the previous application. Therefore subject to the following existing conditions remaining in force the Highway Authority has no objection to the proposal.

(Ref. 3/1304-13) 20. Limit on HGV movements There shall be no more than 100 Heavy Goods Vehicle (HGV) movements, (50 in and 50 out) in respect of all operations granted in this permission in any one working day, Monday to Friday. For the purposes of this permission, HGVs are any vehicle in excess of 7.5 tonnes.

Reason: In the interests of highway safety.

21. Signage requiring HGVs to turn left out of the site Details of the design and location of a sign requiring all HGVs to turn left out of the site onto the Bishop's Stortford By-Pass in a northerly direction shall be submitted to and approved in writing by the Local Planning Authority. The approved sign shall be in position by the commencement of development.

Reason: In the interests of Highway safety.

22. Wheel washing and cleaning facilities Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during the construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway. Efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during construction of the development to allow for the cleaning of the wheels of all lorries leaving the site.

Reason: In the interests of highway safety and so that there shall be the least possible adverse effects upon the free and safe flow of traffic along the highways in the vicinity of the site.

#### 6.9 Hertfordshire County Council – Historic Environment (Archaeology)

##### APPLICATION 1 – 3/2533-16:

Proposed application for the extension of the area required for the construction of an agricultural reservoir (3/1304-13) to enable stockpiling of excavated material together with environmental bunds, processing plant, water management ponds and ancillary activities for the period of construction at Thorley Hall Farm, ThorleyWash, Thorley, Bishop's Stortford, Hertfordshire

##### APPLICATION 2 – 3/2534-16:

Proposed application for the removal of condition 8 (no processing of material on site) from permission 3/1304-13 to enable material to be processed on site before removal at Thorley Hall Farm, Thorley Wash, Thorley, Bishop's Stortford, Hertfordshire

Please note that the following advice, concerning Application 1: 3/2533-16, is based on the policies contained in the National Planning Policy Framework. I have no specific comment to make with regard to the second, parallel, application (Application 2: 3/2534-16), given its nature. The proposed development site possesses high potential for prehistoric and Romano-British archaeological remains (heritage assets) to be present. It is close to the Iron Age hillfort known as Wallbury, and several significant early occupation sites are known nearby. These include Bronze Age and Romano-British sites immediately to the north on the land between Whittington Way and St James Way, and a Roman



occupation site containing several timber framed buildings with mortar floors, located east of the agricultural track to Thorley Hall Farm [HER 1526]. A complex of Roman ditches was recorded along the entire length of the existing agricultural track to Thorley Hall Farm, when it was under construction [HER 12617].

Further evidence of for Roman occupation and of prehistoric settlement and cultivation was revealed in 2016, when a programme of archaeological work was carried out at Thorley Hall Farm prior to the construction of the access road for the agricultural reservoir, and the excavation of the agricultural reservoir itself. A report on these investigations, which were carried out in relation to the archaeological conditions placed on planning application ref. 3/1304-13, has yet to be received.

I consider that the position of the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest, as defined by the NPPF. I therefore recommend that the following provisions be made, should you be minded to grant consent for **Application 1: 3/2533-16**:

1. The archaeological investigation of the proposed extension to the permitted agricultural reservoir (3/1304-13), by means of strip, map and sample methodology. The removal of grass and topsoil, and all ground reduction, should be archaeologically monitored.
2. The appropriate archaeological excavation and recording of any remains identified during the monitoring programme.
3. The analysis of the results of the archaeological work with provisions for the subsequent production of a report and an archive, and the publication of the results, as appropriate.
4. Such other provisions as may be necessary to protect the archaeological interest of the site.

I believe that these recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. I further believe that these recommendations closely follow para. 141, etc. of the National Planning Policy Framework, and relevant guidance contained in the National Planning Practice Guidance, and in the Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015). In this case two appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants.

Condition A

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- Condition B
- i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition (A).
  - ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured. If planning consent is granted, then this office will be able to provide details of the requirements for the investigation and to provide information on archaeological contractors who may be able to carry out the work.

#### 6.10 Hertfordshire County Council – Ecology

The removal of Condition 8 will not materially change the ecological constraints present on site, and therefore I offer no comment on this application.

The application site is located adjacent to the southern boundary of Thorley Wood, which is classified as ancient woodland and designated as a Local Wildlife Site. The site is also just within 500 m of a known great crested newt (GCN) breeding pond at Thorley Hall.

The Preliminary Ecological Appraisal submitted with the application has highlighted all the above potential constraints. The ecologist has recommended that the construction site not be placed within 20 m of Thorley Wood and that a 3 m high temporary bund is created along the boundary of the construction site to screen the woodland. I agree with this mitigation strategy and believe it to be the best course of action. In addition to the bund, root protection will be implemented where necessary to prevent damage to any trees.

The species Phase 1 assessments have shown that the habitats affected by the application are of low quality for most protected species including GCN. However, there was evidence of an active outlier badger setts 30 m south of the boundary of the construction site. Suitable mitigation has been recommended in the report.

I am confident that the recommendations that have been outlined in the Preliminary Ecological Appraisal have taken into account the ecological constraints present on site. There is also mention of a post construction Landscape Plan which as far as I can see has not been submitted with the application. I would advise that its production is **Conditioned** within any

planning decision, and approved by HCC before the construction phase is completed.

#### 6.11 Hertfordshire County Council - Lead Local Flood Authority

**Objects** to the application and recommends refusal of planning permission until a satisfactory surface water drainage assessment has been submitted.

In the absence of a Flood Risk Assessment (FRA) we object to the grant of this planning application and recommend refusal of planning permission until a satisfactory FRA has been submitted.

In order for the Lead Local Flood Authority to advise the relevant authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques, the FRA should as a minimum include the following;

- Statement of compliance with the NPPF and NPPG policies, LPA local plan policies and HCC SuDS Guidance and Policies.
- Anecdotal information on existing flood risk with reference to most up to date data and information.
- Location of any ordinary watercourses including any which may be un-mapped.
- The location/extent of any existing and potential flood risk from all sources including existing overland flow routes, groundwater, flooding from ordinary watercourses referring to the national EA fluvial (River) and surface water flood maps.
- Where infiltration is proposed, evidence of ground conditions/ underlying geology and permeability including BRE Digest 365 compliant infiltration tests should be provided.
- Detailed drainage calculations for all rainfall return periods up to and including the 1 in 100 year + climate change event including pre-development greenfield run-off rates.
- Full detailed drainage plan including location of SuDS measures, pipe runs and discharge points, informal flooding (no flooding to occur below and including the 1 in 30 Year rainfall return period).
- Provision of a SuDS management train to manage surface water runoff.

## 6.12 Hertfordshire County Council – Landscape

### Landscape and visual effects

The submitted Landscape and Visual Impact Assessment, Chapter 7 ‘*Summary of Key Landscape and Visual Effects*’ provides a fair overview of the likely landscape and visual effects of the proposed development and are summarised below:

#### *Operational stage*

- Minor - moderate adverse landscape effects
- Minor - moderate adverse visual effects for public rights of way and resident’s becoming negligible further away

#### *10 years post restoration stage*

- Minor beneficial landscape effects
- Neutral visual effects

#### *Operational stage – landscape effects*

The proposal is for the extension of an existing minerals site for the extraction and removal of materials, to accommodate a minerals development for the processing of materials. Whilst both operations are minerals development, they differ in their nature; in particular the processing operation requires additional stockpile areas, silt and water management lagoons, and a processing plant.

Overall, the proposed development appears as a moderate extension of the existing site, into an adjacent field unit well defined by an existing track and woodland belt (Thorley Wood). The extension results in the disturbance of a greater area of characteristic arable farmland, and providing that a sufficient buffer is provided to protect Thorley Wood, does not affect any important landscape features.

#### *Operational stage – visual effects*

There are short distance views from the public rights of way network and highways that pass in close proximity to the site. From here the adverse visual impact of the proposed development is reduced due to the screening of Thorley Wood and the bunds associated with the existing and proposed development.

The most significant views are from the highly sensitive public right of way that passes through the site. From here the proposed development is viewed in context with the existing minerals development, the provision of a bund to the southern side of the public right of way should help reduce the adverse impact upon visual amenity.

At a distance, the variations in topography and intervening roadside vegetation provide an effective screen to views. There are some views towards the site where the top of the processing plant is likely to be

discernible however the significance of impact is reduced due to the transient and long distance nature of the views.

The height of the proposed stockpiles has not been given and should be limited to 5m, in order to ensure that the bunds can provide adequate screening.

*Restoration stage – landscape and visual effects*

At the restoration stage, the proposal to restore the land to agricultural use is deemed acceptable, and should not result in any adverse landscape and visual effects.

*Conclusion*

Providing that the proposed development is completed and restored in line with the timescales for the existing development (June 2021), it is concluded that the proposed development should not result in any unacceptable adverse landscape and visual effects, above that already experienced under the extant permission.

This is largely due to the duration of the proposals (for a temporary and relatively short term), the scale of the proposals (as a moderate extension of an existing minerals development it is largely viewed in context with the existing development), and the effectiveness of the landscape and visual mitigation measures (bunds and the screening effect of Thorley Wood)

6.13 Thorley Parish Council

Application 1.

The comments of Thorley Parish Council on the original planning application were specific regarding no processing on site of excavated materials. If processing on site was intended, then Thorley Parish Council would have objected to the original application. The reasons for agreeing to the application was the imposition of the agreed conditions of the application including condition 8. Therefore Thorley Parish Council object to this application.

Notwithstanding any claims made by the contractor, there has been no change in circumstances or findings since the original application to warrant a change of the planning conditions.

Application 2.

Thorley Parish Council object to this, as condition 8 was, after discussion and agreement, one of the conditions imposed on the planning consent. Its inclusion was a conditional reason for not objecting to the original application.

Thorley Parish contends that Application 2 be refused and if this is the case there will be no need for site extension as proposed in Application

1.

Thorley Parish Council would like to make you aware that there has been a breach of Condition 8 in that 2 mobile processing plants have already been installed on the site. Furthermore a visit to the site showed that there was no water browser on site to mitigate the dust from the site.

Thorley Parish Council contends that the applications for installation of a processing plant and extension of the site will noise and dust pollution to residents of the Parish and as such be refused.

#### 6.14 NERL Safeguarding

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

#### 6.15 Natural England

Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Thorley Flood Pound Site of Special Scientific Interest has been notified. Natural England understands that no water discharges from the application site will be required (Planning Statement, paragraph 4.4). On this basis, we have no objection to the proposal, mindful of a hydrological linkage between the application site and the nearby Thorley Flood Pound SSSI. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

- 6.16 A total of 98 consultation letters were sent out and **2 letters** objecting to the application *has been received*. The issues of concern can be summarised as:
- Noise, dust.
  - Damage to rural environment
  - Hours of operation
- 6.17 Publicity for the application was as follows: A site notice was erected on November 2016 and the *application was advertised in the Herts & Essex Observer on 17<sup>th</sup> November 2016*.

## **7 Planning Policy**

### **National Planning Policy Framework 2012 (NPPF)**

- 7.1 The NPPF was released in March 2012 and 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.
- 7.2 The NPPF refers to three dimensions of sustainable development; economic, social and environmental and the purpose of the planning system being to contribute to the achievement of sustainable development. In order to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as to people's quality of life and improving the conditions in which people live, work, travel and take leisure.
- 7.3 The environmental role in the NPPF promotes the purpose of the plan in contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity and use natural resources prudently.
- 7.4 The NPPF also 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.

- 7.5 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.
- 7.6 The NPPF goes on to say in Para 90 that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include mineral extraction.
- 7.7 Regarding flood risk, the NPPF says that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 7.8 In para 109 of the NPPF it states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. It goes on to say that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts),adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. In addition, planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality; ensure that there are any unavoidable noise, dust and particle emissions.



## **Development Plan**

7.9 The Development Plan is the Hertfordshire Minerals Local Plan Review and the East Herts Local Plan. The NPPF is also a material consideration.

7.10 The relevant development plan policies are:

East Herts Local Plan Policy GBC1 Appropriate Development in the Green Belt Hertfordshire Minerals Local Plan Review 2002-2016  
Policy 17 – Criteria for the control of mineral development to protect critical capital and other environmental assets.

## **8 Planning Issues**

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

- Green Belt
- Minerals development impact on local area
- Ancient Woodland
- Flood risk

8.2 The application site is situated in the Green Belt. The NPPF (para 90), does allow certain forms of development such as mineral extraction (referred to as not inappropriate) in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.

8.3 This application forms an extension to the existing site. The primary purpose of the existing development is to create an agricultural reservoir for irrigation at Thorley Hall Farm, although the operational development would in itself result in the extraction of minerals which would be used elsewhere. It is for this reason that the application was determined by the County Council as a minerals application. The extension of the site to the north (subject of these applications) would involve land being used for the processing of the mineral which would provide adequate space for the stockpiling of excavated material, together with a treatment plant and the creation of silt lagoons.

8.4 The proposed development is not 'mineral extraction' in itself, the planning application site is solely being proposed to be used for stockpiling and a treatment plant. Therefore it is considered that the proposed development represents inappropriate development in the Green Belt and would adversely affect openness. The planning application states that processing of the material would take place over a five year period, however the original application submitted for the construction of the agricultural reservoir indicated that it would take no longer than 3-4 years

to construct. Development commenced on the construction of the agricultural reservoir in Autumn last year and therefore according to the original timescale it should be complete by 2020. The current application would lengthen that timeframe until a possible 2022. It is acknowledged that the harm that would occur would be over the relative short term and that the site would be landscaped and restored back to agriculture at the end of the development with the long term result of the proposed development having no greater impact on openness. However the harm that would occur by reason of impact on openness during the proposed timescale is considered to be unacceptable and inappropriate in the Green Belt.

- 8.5 Planning permission was previously granted for the original development on the basis that all material would be removed from the site 'as dug' and that no processing would take place on site. This was to ensure that the least impact on openness in the Green Belt, over the shortest possible time would take place. The current application does not ensure that and it is considered that the extension of the site for the proposed purpose would have a significant impact on openness and therefore be contrary to Green Belt policy.
- 8.6 With regard to the site being a minerals development, it should be remembered that although it is anticipated that the site will produce approximately 200,000 cubic metres of sand and gravel, it is in effect a windfall site which has only come about due to a specific need for the agricultural reservoir required for irrigation of farmland in an area potentially forecast to become drier in years to come due to climate change. The permission was not granted due to a requirement for the mineral, but rather due to the very special circumstances that were considered to exist for irrigation. It is therefore considered that there is no specific need to process the mineral on land adjacent to the site and that the issue of removing the mineral as raised off site was assessed at the time of the original planning application and the issues have not changed since then.
- 8.7 Immediately to the north of the proposed planning application site lies Thorley Wood which is an area of Ancient Woodland. Thorley Wood is listed on Natural England's Ancient Woodland Inventory as ancient semi-natural woodland (ASNW). The Woodland Trust objects to these planning applications and considers that the proposal will result in the damage of ancient woodland. Ancient woodland is defined as an irreplaceable natural resource that has remained constantly wooded since at least AD1600. The length at which ancient woodland takes to develop and evolve (centuries, even millennia), coupled with the vital links it creates between plants, animals and soils accentuate its irreplaceable status. The varied and unique habitats ancient woodland sites provide for many of the UK's most important and threatened fauna and flora species cannot be recreated and cannot afford to be damaged or lost.

- 8.8 NPPF para.118 states that “planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.” It is considered that no substantive reasons have been put forward by the applicant which change the requirements of the construction of the agricultural reservoir to require processing on site rather than material being taken off site. It is considered that there is no justification to allow the potential deterioration of the Ancient Woodland.
- 8.9 The Lead Local Flood Authority (LLFA) objects to the application and recommends refusal of planning permission in the absence of a satisfactory surface water drainage assessment. As a Flood Risk Assessment (FRA) has not been submitted the LLFA objects to this planning application and recommends refusal of planning permission.

## **9 Conclusions**

- 9.1 It is concluded that the proposed development, being adjacent to an area of Ancient woodland would result in deterioration of an irreplaceable habitat and that the need for, or the benefits of, the development in that location do not outweigh the impacts that could occur. The proposal is therefore contrary to NPPF and Policy 17 of the Hertfordshire Minerals Local Plan Review.
- 9.2 The application has been submitted without a Flood Risk Assessment nor a satisfactory surface water drainage assessment. The Lead local Flood Authority therefore object to the application as it has not been demonstrated that the site will not increase flood risk to the area nor can provide appropriate sustainable drainage techniques. The application is therefore considered to be contrary to the NPPF and Hertfordshire Minerals Local Plan Review Policy 17.
- 9.3 The planning application site is located in the Green Belt. Para.88 of the NPPF requires that Local Planning Authorities when considering any planning application, 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.
- 9.4 The location of the proposed development with stockpiles and treatment plant (not mineral extraction per se) would result in a clear loss of openness, which is a fundamental aim of Green Belt policy and would conflict with the purposes of including land in the Green Belt. The proposal is therefore contrary to NPPF para.88.

9.5 For the above reasons it is therefore concluded that planning permission should be refused.

## **10 Recommendation**

10.1 It is recommended that planning permission for both applications be refused for the following reasons:

1. The proposal constitutes inappropriate development in the Green Belt which would affect openness, for which no very special circumstances have been demonstrated that would override harm and harm to the Green Belt. The proposed development is therefore contrary to the NPPF and East Herts Local Plan Policy GBC1. The development would cause substantial harm to the Green Belt by intrusion into the countryside resulting in its loss of openness and the development would fail to conserve the natural environment that surrounds the site.
2. The application has not demonstrated that the site will not increase flood risk to the site and elsewhere, nor that it can provide appropriate sustainable drainage techniques. Therefore the proposal is contrary to the NPPF and Policy 17 of the Hertfordshire Minerals Local Plan Review.
3. The development is adjacent to an Ancient Woodland and the proposal has not demonstrated that it would not result in deterioration of an irreplaceable habitat and it is considered that the need for, or the benefits of, the development in that location do not outweigh the impacts that could occur. The proposal is therefore contrary to the NPPF and Policy 17 of the Hertfordshire Minerals Local Plan Review.

### Background information used in compiling this report

NPPF  
Herts Minerals Local Plan Review  
Representations received