

**HERTFORDSHIRE COUNTY COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE  
WEDNESDAY, 26 APRIL 2017 AT 10.00AM**

**DISTRICT: EAST HERTS**

Agenda Item No.  <b>1</b>
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**APPLICATION TO ENHANCE THE RESTORATION OF PHASES F AND H AT PANSHANGER QUARRY THROUGH THE IMPORTATION OF INERT RESTORATION MATERIALS VIA A PROPOSED NEW ACCESS OFF PANSHANGER LANE TOGETHER WITH CREATION OF A NETWORK OF PATHS AND USE OF AN OLD BARN FOR COMMUNITY USE AT PANSHANGER PARK, PANSHANGER, HERTFORD SG14 2NL**

*Report of the Chief Executive and Director of Environment*

Author: Felicity J Hart, Principal Planning Officer [Tel: 01992 556256]

Local Members: Ken Crofton, Peter Ruffles

## **1 Purpose of Report**

- 1.1 To consider planning application reference number 3/0527-15 CM090 which proposes the importation of 940,000 cubic metres (around 1.6 million tonnes) of inert restoration materials to fill mineral voids known as Areas F and H at Panshanger. It is also proposed to create a new vehicular access for HGVs into Phase H off Panshanger Lane close to the junction with the A414, and erect ancillary facilities (weighbridge and site offices).
- 1.2 The application was submitted in 2015 but has since been amended to also include the creation of a network of paths (footpaths and bridleways) throughout the Cole Green estate linking into the Country Park, together with the proposed use of an old barn on the Cole Green estate for community use. This report addresses the issues that arise from those amendments.
- 1.3 The application was submitted as proposed development under EIA Regulations and was therefore submitted with an Environmental Statement (ES) which covered the issues of landscape, cultural heritage and historic landscape, hydrology/hydrogeology, highways, noise and public rights of way. The submitted environmental information therefore needs to be taken into account in reaching the decision on this application.

## **2 Summary**

- 2.1 This application seeks planning permission for the importation of 940,000 cubic metres of inert material (1,600,000 tonnes) to fill mineral voids at Panshanger Quarry. The mineral voids to be filled comprise Areas F and H of the approved restoration scheme at Panshanger. The application was first reported to Development Control Committee in December 2015 when it was resolved to grant planning permission subject to a Section 106 Agreement.
- 2.2 Following discussions and negotiations since then, the planning application has been amended and now planning permission is sought for the importation of inert material to fill the mineral voids and for the creation of a network of paths (some footpaths and some bridleways for use by the public) and the use of a nearby old barn for community use. Both the network of paths and the old barn are part of the historic Cole Green Estate, which forms part of the wider Grade II\* Historic England registered Panshanger Park.
- 2.3 Phase G comprises land to the south of the A414 and is not proposed to be extracted at all now. Phases F and H would be restored to the original land level through the importation of inert material together with the use of topsoil and subsoil retained on site for final restoration.
- 2.4 Phase H is sited wholly within the Grade II\* Registered Park and the application seeks to provide the opportunity to not only restore the land levels and landscape the area but also undertake some further work to enhance some of the historic features and introduce a network of paths to provide both access through Panshanger (north–south and east–west), links to the Country Park and also to provide public access for people to appreciate and learn about the historic landscape.
- 2.5 The additional amendments to the application comprise the network of paths within the Cole Green Estate area, together with a new cycle track from The Old Coach Road at Birch Green connecting with the footbridge over the A414 providing direct access into the Country Park, and the use of the barn for community use. These are the additional elements to the planning application that have come about following detailed negotiations with the applicant and local land owners over the course of the last year. These elements are considered to provide a good level of mitigation for the harm that would be caused to the local area as a result of the development, and harm to the historic landscape through the importation of waste over the next ten years.

## **3 Conclusion**

- 3.1 In 2015, it was resolved to grant planning permission for this proposal subject to a S106 Agreement requiring the payment of £200,000 to a Heritage Fund to be used to enhance historic features within the Cole

Green estate for public benefit. This amended application includes the detailed routes of the proposed network of paths and the location of the old barn to be used for community use. The S106 Agreement will also refer to these elements.

- 3.2 It is therefore recommended that the application be approved subject to the conditions listed below and the completion of a S106 agreement following the Heads of Terms also set out below. In the event that the S106 Agreement is not concluded within 6 months of the date of consideration of this report then planning permission should be refused.

### **S106 Heads of Terms**

1. Following commencement of importation:
  - No future extraction at Area G;
  - No further mineral extraction of F & H.
2. Payment of £200,000 (for works associated with the conservation and enhancement of heritage features in the Cole Green estate which are related to the development proposals and to be made available for public benefit).
3. Setting up a Heritage Committee which would oversee the spending of the Heritage Fund to make improvements to heritage assets including the old barn.
4. Ensuring that the owner would use their best endeavours to ensure that an appropriate community use could take place if the barn has had Heritage Fund monies spent on it.

### **Planning Conditions**

1. Implementation period
2. Approved plans and documents
3. Working programme and phasing
4. Duration and completion of restoration works
5. Hours of working
6. Submit new HGV access details
7. Submit details of network of footpaths, cycletracks and bridleways
8. Number of lorry movements limited to 160 movements per day
9. Mud on road and cleaning of vehicles
10. Dust management
11. Noise limits
12. Bunding of fuel tanks
13. Details of and location of wheel wash, site offices and weighbridge
14. Submit landscaping scheme
15. Conservation, landscape, ecology and biodiversity
16. Replacement of any trees planted
17. Lighting
18. Fencing /gate details
19. Footpath routing and crossing safety measures
20. Soil handling and soil specification and final levels
21. Aftercare
22. Archaeology

- 23. Record of waste source
- 24. Mud on road and wheel cleaning
- 25. Detailed landscaping scheme for land surrounding Cole Green Barn.
- 26. Detailed scheme for restoration of all areas to be removed prior to completion of restoration e.g. haul road, vehicular access, site cabin
- 27. Bat and bird survey and mitigation at Cole Green barn.

#### 4 Planning Issues

- 4.1 The main planning issues were assessed in the previous report to Development Control Committee of December 2015, however, the current submitted amendments require further issues to be assessed in relation to the historic landscape and heritage assets, ecology impacts, rights of way issues, highways impacts and amenity impacts.
- 4.2 As the main amendments relate to additional rights of way for the public, these have been assessed with regard to their ability to provide public benefit both in terms of route accessibility and also their ability to provide for understanding and knowledge of the historic landscape.
- 4.3 Additionally, a barn belonging to the Cole Green Park and being an undesignated heritage asset, has been put forward as a possible asset that Heritage Contribution could be spent on. In order to make sure that the heritage asset would then be utilised into the future, ensuring the future upkeep of the structure and giving public benefit, a potential for community use has been identified and put forward in the description of development on this planning application.
- 4.4 As the barn is an old structure, it has also been identified that there is a bat and bird presence using the building and therefore an ecological assessment has also been necessary.
- 4.5 The other amendments relating to a network of paths, including landscaped features have been put forward as amendments in order to enhance the historic landscape in the vicinity of the land to be restored with imported materials. With careful phasing it will be possible to allow the public into the area whilst the importation works are taking place.

#### 5 Consultations replies in respect of amendments

- 5.1 Hertfordshire County Council Rights of Way (*\* Note: these comments do NOT relate to the updated set of plans April 2017*)

We have discussed and documented the need for a strategic North-South and a strategic East-West routes to be **definitive public rights of way**, given via a Deed of Dedication from the owners, Tarmac. The documents, however, still use the term 'Permissive' throughout, which is unacceptable on several grounds:

- a) To improve the safety of the current Panshanger Lane at-grade crossing of the A414 depends on the use of the agricultural underpass – this cannot remain permissive or have an end-date attached to it. It must be a **definitive public right of way**.
  - b) The local Access Forum (a statutory body advising the Council to which the Council has a duty to have regard) have advised that they wish to see **definitive public rights of way** into and connecting to the wider Panshanger Park area.
  - c) The local Rights of Way user groups (walkers, cyclists and equestrians) have all separately expressed their concern over the whole access network being permissive and their desire to see some definitive routes included.
  - d) Local residents have also expressed their demand to see some definitive routes included.
  - e) The Access & Rights of Way Service is therefore in agreement that these desires and demands must be met by the applicant if this application is to be given permission. The strategic North-South and a strategic East-West routes represent a current gap in the wider access network, which are required to give users safe off-road alternatives to walking, riding and cycling on the busy B1000 and Thieves Lane.
- 1) The strategic North-South and a strategic East-West routes must be of multi-user status, e.g. Public Bridleway, if not Restricted Byway, to cater for differing user groups.
  - 2) The actual final routes (based on suitability, gradients, links etc) may be negotiated with the owners, Tarmac, but the principle of the strategic North-South and a strategic East-West routes is required to be delivered on public benefit grounds of safety, connectivity and permanence.
  - 3) Permissive routes will be acceptable elsewhere throughout the Park, to widen the network available to the public, on the condition that the strategic North-South and a strategic East-West routes are agreed with HCC's Access & Rights of Way Service with an agreed commencement date.
  - 4) **Paragraph 2.16 & diagram**, the 3 metre width specified is acceptable for permissive / definitive **footpaths** only, however it is not wide enough for permissive / definitive **bridleways** which should be specified at **6.0 metres** throughout.

5.2 Hertingfordbury Parish Council - comments awaited

5.3 Friends of Panshanger Park – comments awaited

- 5.4 Herts Garden Trust (*comments from December 2016 - These should be read in conjunction with comments previously submitted in April 2015 for the original application.*)

#### Restoration of Ground levels

HGT support the import of inert materials to restore the ground levels to original in this landscape designed by Capability Brown in the 1750s. This should be informed by a detailed survey of the topography before extraction which we are not aware was carried out. If this is the case, then old ordnance survey maps (1<sup>st</sup> editions) should be used to inform the levels and the lines of old routes such as carriageways).

#### Permissive Footpaths

We have studied the map and accompanying information on the phased introduction of these routes. We support the provision of these routes to help the public understand and enjoy this landscape. We are also not sure if any of the area will be open access.

However, we are unsure of the significance of the red lines along the routes. We would consider fencing (if this is what it is) to be intrusive and unacceptable in a Brown landscape park, unless temporary fencing was required during the working phases of restoration.

In light of the current Hertfordshire County Council consultation on the Transport 2050 Vision and its emphasis on increasing provision for enhanced cycling facilities and encouraging their use, we consider that the north –south route (from the old Coach Road at Cole Green, via underpass and near the old haul road to Butterfield Way) and the east-west route (from Panshanger Lane along the perimeter near the A414 to its junction with Footpaths 33 and 10 at the present footbridge) should be designated Public Rights of Way as they are key access routes in this wider area.

All footpaths and bridleways should have appropriate surfacing, both for type and amount of usage and to complement and enhance the heritage values of the landscape. Thus hoggin or similar would be suitable for cycle/bridleways but grassed routes for pedestrians should be sufficiently wide so that narrow paths are not worn and compacted..

#### Restoration of the plantings

Little detail is included in section 3 of the David Walker Supplementary Submission but we would support the aim of conserving and enhancing the heritage features in accordance with NPPF guidance.

#### 1. Planting

##### 1.1 Oak Avenue

The historic oak avenue leading east from the ha-ha and dating from 1704 was retained by both Brown and Repton as a feature and some of the original trees still survive. To restore this as a recognisable historic feature the scrub trees planted since then which occupies the centre of the avenue should be cleared and the land restored to grass with access across the

whole width to reduce the formation of 'desire paths' (see Ashridge). Some of these trees may be suitable for planting elsewhere and any oaks could be used to help restore the integrity of the avenue (the 1<sup>st</sup> edition of Ordnance Survey map 25" : 1 mile shows the position of these trees). Although access would not be permitted as far as the ha-ha, we consider that this ha-ha should be consolidated and invasive tree roots be removed to conserve this as a historic feature. The boundary between the public and further sections of the oak avenue could be designed to echo the shape of the ha-ha as a curve and be formed of a low hedge with a pleached stilt hedge above it giving the impression of an 18<sup>th</sup> century grove. The woodland behind, known as High Grove, has lost its definition and this would give context and additional setting, approaching its original, for the oak avenue.

### 1.2. Land at Area H.

This is proposed to be returned to agricultural use as grazing. We would suggest that some, at least, of the original avenue leading from the South Lodge at Cole Green to the Cole Green mansion should be replanted along the former line. The planting depressions left by former trees should have been recorded on the pre-excitation survey. If not, then the 1<sup>st</sup> edition Ordnance Survey maps will show positions. This avenue continues across the south side of the A414 and gives context to the area. We would also suggest augmented planting along the perimeter with the A414 to reduce visual and noise intrusion into the landscape.

1.3 Land at Area F. Woodland to complement the historic woodland on Chisel Shelf is proposed and HGT would support that if public access was to some degree permitted. There is no information on possible paths through these woods or how Footpath 33 which passes the east end of the woodland ride on Chisel Shelf could be linked to the ride (currently there is a locked gate and the woodland ride is not maintained).

## 2. The Ponds

The two ponds near the oak avenue are shown on early maps and in the Charnock drawing of the mansion in c 1800. They were valuable additions to the scenery and should be enhanced by scrub clearance.

### The Barn

HGT welcome the proposed restoration and barn for community use. This is in line with the NPPF (paragraph 126) on putting heritage assets to viable uses consistent with their conservation.

There are few details of this in this application but further consideration needs to be given to

1. definition of community use: does this include using the barn as a facility for casual visitors to the park perhaps as an information point for the Cole Green side of the park? Or is it solely for groups using the park?
2. ongoing management of the barn: who is to manage it and the aims and objectives of the community use
3. ongoing maintenance. The responsibility and funding for this should be settled at an early stage

4. ongoing development. This facility has the potential to be an excellent, low-key visitor attraction. This, however, will probably require more capital than may be envisaged for the heritage aspects of the current land restoration or than can be raised through use as a community facility. Fund-raising from outside bodies is considerably easier if the land is held (even as leasehold) by a charitable trust.
5. provision of parking for this side of the park. We would suggest that some disabled parking provision is made adjacent to the barns to enable full community use of them. Similarly bike racks would encourage use of the cycle paths and of the park. The provision of car parks for other users will, we assume, be addressed in the Management Plan due soon.

#### Heritage Committee

HGT would be interested to see full details of the proposed Heritage Committee, its Terms of Reference and how and to whom this Heritage Committee will report.

5.5 Historic England – no further comment received.

#### 5.6 Herts and Middlesex Wildlife Trust

The inclusion of the refurbishment of the Black Barn in the resubmitted proposals is a matter of concern. The structure of the building exhibits a high suitability to support bat roosts, it is located in optimum bat habitat and there are a high number bat records from the vicinity. This means that there is a strong probability that bats will roost in the barn at some point during the year. If roosts are present they will be impacted by the proposals.

ODPM circular 06/05 (para 99) is explicit in stating that where there is a reasonable likelihood of the presence of protected species, it is essential that the extent that they are affected by the development is established before planning permission is granted, otherwise all material considerations cannot have been addressed in making the decision. In this instance there is a higher than reasonable likelihood of their presence, so surveys are required before a decision can be made. Without this information, the circular and NPPF state that the application should be refused. Surveys cannot be left to condition – this is strictly prohibited in ODPM circular 06/05.

LPAs have a legal duty to consider the application of the Conservation of Habitats and Species Regulations 2010 in the application of all their functions. If the LPA has not asked for survey where there is a reasonable likelihood of European Protected Species (e.g. bats) it has not acted lawfully and will be open to challenge. R (on the application of Simon Woolley) v Cheshire East Borough Council, clarified that planning authorities are legally obligated to have regard to the requirements of the EC Habitats Directive when deciding whether to grant planning permission where species protected by European law may be harmed.



In the opinion of HMWT there are 2 courses of action open to the applicant;

- Remove the barn renovation aspects of the application. The barn development can then be submitted as a separate application with all the requisite surveys and required mitigation at a later date. Bat surveys cannot be conducted adequately at the current time of year - apart from preliminary scoping inspections which are rarely conclusive.
- Withdraw the application and conduct the necessary surveys then re submit the application when they have been completed. Meaningful bat surveys on the barn will not be able to be conducted until May-June. This will obviously significantly delay the application being determined. All surveys should be conducted in accordance with national best practise guidelines, by suitably qualified personnel and information submitted in accordance with BS 42020. All mitigation or compensation measures should be definitively stated and clearly marked on plans. If bats or their roosts are found and a European Protected Species Mitigation Licence is required, HCC will need to consider the 3 tests of the EPSML in making their decision in order to pass a lawful judgement.

#### 5.7 Hertfordshire County Council Ecology

##### Panshanger Barn Bat Report

Thank you for sending me a copy of the Bat Report dated 18<sup>th</sup> Jan 2017, for which I have the following comments:

1. The barn was surveyed involving a thorough inspection of external and internal characteristics and features. Existing records from in the general area and surrounding habitat (including woodland and veteran trees) suggested that bats were almost certainly likely to be present and active in the general area of the barn.
2. The barn has numerous features which would enable access for bats – warped weatherboarding, slipped, lifted or missing roof and ridge tiles, open doorway etc. although some characteristics are less significant, particularly given much of the main roof and walls are unlined leaving more limited crevice dwelling opportunities. Internally other features includes gaps above the timber frame and where damaged. The porch roof is lined which could provide ‘crevice dwelling’ opportunities for bats.
3. Other than a couple of old bat droppings on one wall, the main evidence for bats was over one hundred droppings in the centre of the main barn building beneath the ridge, most of which appeared to be fresh from the previous season, as well as butterfly wings scattered across the barn floor. It was considered the droppings are consistent with those from brown long-eared bats, a cavity dwelling species. [Wings are characteristic of feeding remains and may also have been from night-lying moths].

4. The barn was not considered to be suitable as a potential hibernation site due to the construction being unlikely to maintain a stable cold temperature. I have no reason to dispute this view.
5. Evidence of bird nesting (swallow and jackdaw) was also noted.
6. It is suggested that two roosts are present – although I consider the evidence for a roost in the porch (two old droppings on the timber frame) is very tenuous as this could be from a single bat actively foraging for insects once in the barn. However **there is clearly a recent, active roost of sorts present within the main building**. The barn was considered to **have high roosting potential** due to the location, features and droppings, probably as a summer roost although there is no suggestion of a maternity roost from the evidence. The potential for crevice dwelling bats if there is suitable access where the roof is lined cannot be ruled out.
7. The proposed works will almost certainly have an impact on bat and bird roosting and nesting activities in the barn, although no detailed designs for the barn have been provided.
8. Recommendations (Section 5) have been provided; these include:
  - Further bat surveys (**roost characterisation surveys**) will be required to further assess the nature of the roosts (5.1, 5.2);
  - Proposals for **creating an internal loft space in the barn** in order to retain the existing roost reasonably undisturbed in the main building (5.3);
  - The need for an **European Protected Species licence** if a roost is to be affected (5.1);
  - **Compensation for bird nests** (5.4).
9. I consider the survey to be acceptable and recommendations are suitable although they are relatively weak due to the lack of any further details regarding compensation features or timing of works. However, these would be provided as part of the roost surveys. On this basis, **I consider that the application may be determined** given that (very) **outline compensation has been provided** which is (just) **sufficient to enable the third Habitat Regulations test to be satisfied**.
10. However, I advise that a **Condition** should be attached to any approval to the effect that:

**Prior to any works to the roof or walls of the building taking place, further roost characterisation surveys and more detailed recommendations are provided regarding bats and birds to the satisfaction of the Planning Authority. If roosts are affected, a licence will also need to be obtained prior to any relevant works taking place.**

- 5.8 An update on consultation will be provided at committee.
- 5.9 The original press notice was published in the Welwyn Hatfield Times and Hertfordshire Mercury Series on the 12<sup>th</sup> March 2015 and 4 site notices were put up in the area on the 13<sup>th</sup> March 2015.

#### **4 Development Plan**

- 4.1 Section 70(2) of the Town and Country planning Act 1990 states: In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- 4.2 Section 38(6) of the Planning and Compulsory Purchase Act states; If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The relevant development plan policies are:

National Planning Policy:

NPPF 2012

NPPW 2014

Hertfordshire Waste Core Strategy 2012

Policy 1A Presumption in favour of Sustainable development;

Policy 4 Landfill and Landraise

Policy 6 Green Belt

Policy 11 General Criteria for assessing Waste Planning Applications

Policy 13 Road Transport & Traffic

Policy 15 Rights of Way

Policy 16 Soil, Air and Water

Policy 17 Protection of Sites of International and National Importance

Policy 18 Protection of Regional and Local designated sites and area

Hertfordshire Minerals Local Plan Review 2002 -2016

Minerals Policy 9 Contribution to bio-diversity

Minerals Policy12 Landscape

Minerals Policy 13 Reclamation Scheme

Minerals Policy 14 Afteruse

Minerals Policy 15 Landfill

Minerals Policy 16 Transport

East Herts Local Plan Second Review 2007

Policy GBC 1 Appropriate Development in the Green Belt

Policy GBC14 Landscape Character  
Policy ENV 17 Wildlife habitats  
Policy BH16 Historic parks and gardens

## **5 Planning Considerations**

### **5.1 Principal Issues**

The principal issues considered in relation to the submitted amendments, to be taken into account in determining this application are:

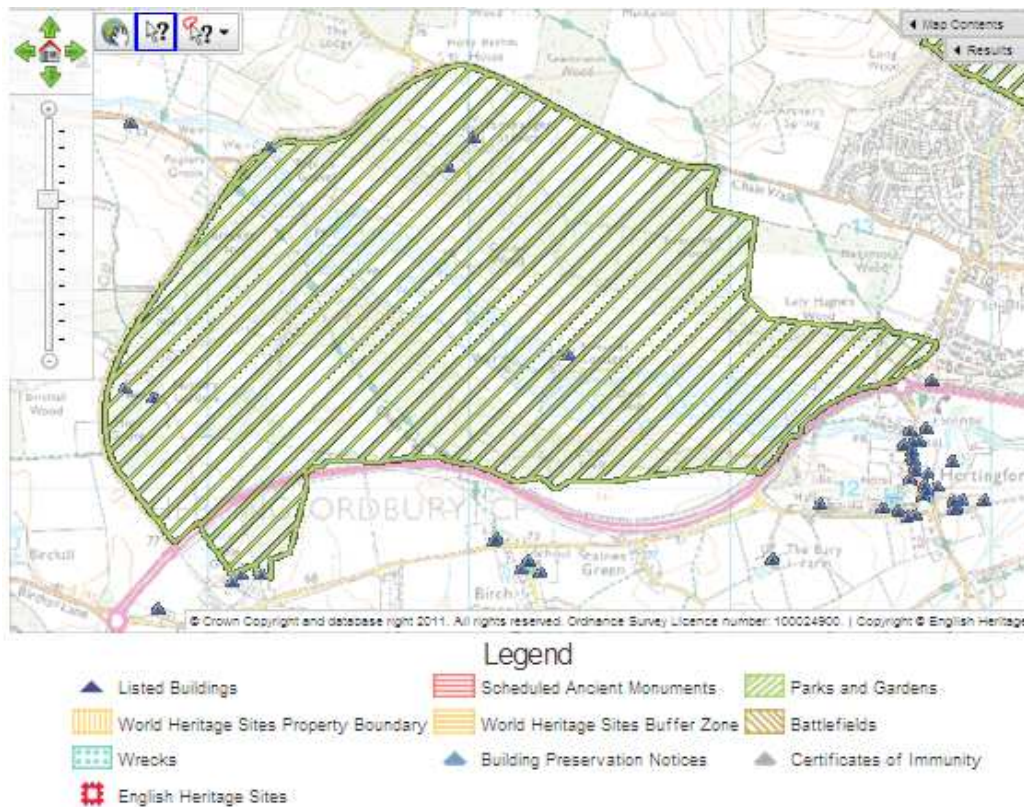
- Heritage and the historic landscape
- Ecology issues in relation to the barn
- Landscape Issues
- Amenity considerations
- Rights of Way
- Highways and transport
- Planning history and Legal Agreement
- Proposed S106 and Heads of Terms

5.2 Panshanger Park is designated by Historic England as a Grade II\* Registered Park and Garden and therefore forms a significantly important landscape of exceptional national historic value. Area H in this planning application forms part of the former Cole Green Park and Area F (Chisel Shelf) is adjacent to the designated historic landscape. The landscape around Area H is considered to be very important in heritage terms and therefore its restoration needs to be to a very high standard.

5.3 The original restoration of the landform at areas F, G and H was designed in the form of sunken basins to be used for agriculture after restoration. However this design goes back to when the overall design for the working scheme was created. As it was originally intended to complete the extraction and restoration at Panshanger with no importation of material, and it was therefore necessary to design the restored areas of land at a lower level. Some areas of land (such as on the northern plateau) have been successfully restored at a lower level but the design of those has managed to blend the lower level into the landscape. However, the approved restoration scheme for areas F, G and H would not result in a final restored landform which would be considered acceptable today. In particular, Area H is wholly within the Grade II\* registered Park and Area F although outside the Grade II\* Park abuts it. Historic England designated Panshanger Park Grade II\* in 1987 which was after the original planning permission for mineral extraction at Panshanger was granted.

- 5.4 Given that Area H is sited within the Grade II\* Registered Park area, it is considered especially important that the landscape be restored in a way which would help sustain and enhance the historic significance of the registered park and garden. Section 12 of the NPPF requires that this to be the case and Policy BH16 'Historic Parks and Gardens' in the East Herts Local Plan is also applicable which states that proposals that significantly harm their special historic character, appearance or setting will not be permitted.
- 5.5 The reason the parkland is designated Grade II\* is due to identified elements of eighteenth and early nineteenth century historic designed landscape which are attributed to that period and to Lancelot Brown and Humphry Repton, two of the greatest exponents of the English Landscape Movement, which is why the landscape is considered to be of such great significance.
- 5.12 Historic England supports the intention to reduce the scale of mineral extraction across the site (leaving Area G in situ) and the restoration of Areas F & H back to original land levels. It is also noted that the current restoration plans comprise an enhancement to those already approved including the intention to restore the zones of extraction to their pre-works datum. Historic England has no objection in principle to bringing inert material onto the site. There is also no objection on a temporary basis, until works are complete to the creation of the access road. When the restoration is completed the access should be scaled down to an appropriate sized track and the junction splays removed onto Panshanger Lane.
- 5.13 The NPPF states that heritage assets should be conserved in a manner appropriate to their significance. As a Grade II\* Park it is very important that an agreed level of understanding is achieved about how the site is to be restored as Grade II\* is considered to be of exceptional national importance.
- 5.14 Hertfordshire Gardens Trust (The Gardens Trust) confirm that the park is not just of regional value but of is of exceptional national historic value as Area H is part of the Capability Brown layout (in connection with Cole Green House) and the area needs very careful treatment. Details of ancillary facilities proposed would need to be submitted for approval, together with proposals for the detailed restoration of those areas where they would be located as after use.
- 5.15 In terms of this planning application and the expected final conclusion of extraction works at Panshanger, it is considered that this planning application presents a considerable opportunity for an exemplar in landscape restoration to be created. Historic England recommend that a Conservation Management Plan be developed which would allow for a full understanding across the whole of Panshanger Park and garden and its setting. This is now in the early stages of being developed by the applicant.

- 5.16 The NPPF requires local planning authorities to take the wider social, cultural, economic and environmental benefits of conservation of the historic environment into account and the desirability of new development making a positive contribution to local character and distinctiveness. Heritage assets, it says should also be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 5.17 Policy 17 of the Waste Core Strategy seeks to ensure that waste management proposals will only be permitted where they would not have an irreversible adverse impact on Historic Parks. Minerals Local Plan Policy 12 (Landscape) aims to ensure that the distinctiveness of historic landscape character is maintained and that the final restoration scheme takes full account of the historic landscape character. It can be argued that this application would achieve a better end result in terms of restoration than the current approved plans and that would be consistent with policy. However, in order to get to the position of creating an exemplar restored landscape, it also has to be acknowledged that there would be a significant period of disruption to achieve that result. For up to ten years there would be extra lorry movements bringing inert waste into the site and travelling through the historic landscape which would not otherwise have occurred.
- 5.19 It is accepted and supported though that the final result of this proposal aims to conserve and enhance the heritage assets at Panshanger, particularly with regard to Area H, but in order to comply fully with the NPPF's aim to take the wider benefits into account, it is considered that there needs to be a recognition of the balance which will have to be struck between the creation of the restored landscape at the end of the process and the extra impact on the historic landscape and the local area in the interim while operations take place.
- 5.20 The applicant has now amended the application with a view to providing a number of further enhancements to the Cole Green Park area of the wider Panshanger Park, providing a significant increase in public access into the historic parkland which currently has no public access. The aim of this access is not just to provide the opening of strategic routes of which most would ultimately be able to be used by people on foot, cyclists and horseriders but also allowing and encouraging an understanding of the history of the area by the public and providing access to the adjacent country park.
- 5.21 An old barn within the Cole Green Park area has also been added to the application as a heritage asset which could, once improved, become available for use by the community. The S106 makes provision for this to happen if monies from the Heritage Fund are spent on improving the structure. The barn is the only surviving barn of four which were believed to have been originally built in the Eighteenth century at the time that Cole Green House (which no longer exists) was built.



Map showing extent of Historic England Panshanger Park Grade II\* Registered Park and Garden

5.20 Hertfordshire Ecology comments that any proposed works to the barn will almost certainly have an impact on bat and bird roosting and nesting activities, and no detailed designs for the barn have been provided at this stage.

5.21 The following recommendations have been put forward by the applicant in relation to the barn:

- Further bat surveys (roost characterisation surveys) undertaken to further assess the nature of the roosts ;
- Proposals for creating an internal loft space in the barn in order to retain the existing roost reasonably undisturbed in the main building;
- The need for an European Protected Species licence if a roost is to be affected (5.1);
- Compensation for bird nests.

5.22 Hertfordshire County Council Ecology considers that the submitted survey is acceptable and its recommendations are suitable although they are relatively weak due to the lack of any further details regarding

compensation features or timing of works. However, these would be provided as part of the roost surveys. On this basis it is considered that the application may be determined given that (very) outline compensation has been provided which is (just) sufficient to enable the third Habitat Regulations test to be satisfied.

- 5.23 It is therefore considered that, subject to a condition requiring further surveys for bats and birds at the barn, that no objection is raised and that there is therefore the potential for suitable schemes to take place alongside a possible future community use of the barn.

#### Proposed network of paths

- 5.24 The amendments that have been submitted include a network of paths across and around the former Cole Green Park area. The central area covers a section of landscape which has the remains of an old oak avenue which was planted at the time Cole Green House was built. It is proposed to re-create this feature through new tree planting and clearance. The Cole Green Oak Avenue would be able to become a trail for walkers who would be able to learn about the historical significance of the area. It is proposed that there would be a landscaped feature in a curved shape at the end of the oak avenue where there would be interpretation allowing the public to learn about the Capability Brown landscape. The landscaped feature at the end of the oak avenue would also benefit nearby occupiers of a residential property as it would act as a 'buffer' ensuring that the public routes are kept a satisfactory distance way.
- 5.25 Other routes in the vicinity would be multi user and would provide access, both north- south and east-west, each linking up with existing footpaths and bridleways and the Country Park. It is planned that the first of these routes would be made available within 6 months of the date that permission is granted, with others after 12 months and the remainder when the final landscape has been created. It is also proposed that the most strategic routes would become definitive after a period of time.
- 5.26 Hertfordshire County Council Rights of Way consider that the strategic north-south and strategic east-west routes represent a filling of a current gap in the wider access network. The proposed routes would be a significant benefit and improvement on the current situation in the area giving users safe off-road alternatives to walking, riding and cycling to the busy B1000, Thieves Lane and Panshanger Lane.
- 5.27 In addition, another entirely new feature of the planning application is a proposed new cycletrack/footpath north from Birch Green (The Old Coach Road) which would link up to the existing footbridge over the A414, providing direct access into the Country Park and across to Cole Green Park and the network of other paths. This is considered to be a



major improvement over and above the existing situation of a difficult to access Public Footpath as the current situation.

- 5.28 Throughout the evolution of the park the landscape design has served to enhance the visitor experience and it is considered that this should continue. For example, the arrangement of formal and informal spaces, and the alignment of routes and trees to frame important views. Design aspects such as these should be employed to add value to the proposed scheme.
- 5.29 The NPPF promotes the conservation and enhancement of the natural environment and good design, ensuring that developments respond to local character and are visually attractive as a result of good landscape design. The amendments put forward have sought to achieve this.
- 5.30 It is proposed that the proposed HGV access onto Panshanger would be temporary and on completion of the restoration phase would be restored in keeping with the character of a rural lane with appropriate roadside vegetation. A condition is proposed that would require the details of restoration for this to be submitted for approval.
- 5.31 Overall the proposed restoration of sites F and H to land uses that respect the setting of the wider park landscape are fully supported.
- 5.32 Hertfordshire County Council as Highway Authority raises no objections regarding the proposed amendments and the number of vehicle movements that would be generated by the proposal remains the same as originally commented upon. It is clear that the new HGV vehicle movements generated would have an adverse impact on the local road network, the local historic environment and amenity. There are no possible mitigating measures that could be taken in the circumstances and it is therefore considered that a planning obligation could assist in mitigating the impact of the unacceptable impact on the local road network. The details of the S106 Agreement have now been drawn up to HCC's satisfaction.
- 5.33 There would be further significant impact on the Grade II\* landscape in terms of Area H within the site. Due to the geography of the site, it is planned that Area F (furthest east) would be filled first, which would entail importation lorries travelling through Area H to arrive at Area F. Only when Area F has been completed would the lorries only need to travel over part of Area H until that part of the site is finally completed. This means that there would be a significant impact on part of the Grade II\* landscape from importation lorry movements than would have occurred otherwise. The impact on both the local road network and the Grade II\* landscape needs to be weighed against the benefits of the proposal.

#### Planning History and Legal Agreement

- 5.34 Planning permission was granted in 1980 for the extraction of sand and gravel, the restoration of the land and the creation of a country park at Panshanger. The site was planned to be extracted and restored on a phased basis from east to west. The original plans showed a design for the site which would not require any importation, to ensure that the materials balance on site would enable the restoration to take place without further importation. A Section 52 Legal Agreement was signed at the time and remains in force today to provide for the management of the site in consideration of its interests in terms of nature conservation, ecology and geology and for the creation of a country park.
- 5.45 In 2003, a Review of Minerals Planning Permission was granted permission which provided for an updated set of planning conditions. Although there were some alterations to the Restoration plan, the basic principles of the original approval remained the same. The same condition regarding 'no importation' appeared on the RoMPP Permission as well.
- 5.46 In recent times, the applicant made the decision that Area G is not now economic to dig and as a result the original overall phased working plan of restoration cannot be implemented due to not sufficient material on site. This in part (another factor being the depth of excavation of area F) has led to the current planning application which aims to fill Areas F & H with imported inert material.

#### Proposed S106 Heads of Terms

- 5.47 Given the impact on both the local road network and on the Grade II\* Park itself associated with this proposal, even when balanced against the improvements in the landscape and when taking into consideration the benefits identified, it is considered that there needs to be mitigation. The original planning permission back in 1980 was granted on an exceptional basis given the quality of the landscape and ecological interest. It was not expected that operations would have taken so long, nor that they would need to be extended to accommodate the importation of 940,000 cubic metres of material and the resultant disruption this would cause.
- 5.48 The current proposal therefore needs to acknowledge the impact on the local community and the historic landscape and that is why it is considered that there should be a Section 106 Agreement which would offset those impacts.
- 5.49 It is considered that the contribution through the Section 106 Agreement could go towards the further enhancement of heritage assets within the Cole Green estate, which would benefit the public. The applicant has agreed to this and has agreed to provide a

'Heritage Fund' and the setting up of a 'Heritage Committee'. The applicant has offered to pay £200,000 into a Heritage Fund payable in three stages. In addition Area G will not be dug at all and Areas F & H will cease being extracted once importation to the site has commenced. The applicant has agreed in respect of the barn to make all reasonable endeavours to co-operate with the County Council to allow public access and/or community use once £20,000 or more of the Heritage contribution has been spent on its conservation and enhancement. The S106 Agreement requires some further clarification and agreement on remaining points in order to be acceptable. In addition the details shown on the plans in respect of rights of way also require some further clarification.

## 6 Conclusion

- 6.1 It is considered that the proposed benefits are sufficient to outweigh the dis-benefits that would arise from the 10 year period of importation to the historic landscape. It is therefore recommended that planning permission should be granted subject to the S106 Agreement.