

HERTFORDSHIRE COUNTY COUNCIL

**DEVELOPMENT CONTROL COMMITTEE
FRIDAY, 8 DECEMBER 2017 AT 10.00AM**

EAST HERTS COUNCIL

Agenda Item No. 2

APPLICATION FOR VARIATION (S.73) OF CONDITION 4 (APPROVED PLANS) AND CONDITION 8 (NO PROCESSING OF MATERIALS ON-SITE) ON PERMISSION 3/1304-13 TO ALLOW FOR THE SITING OF A MODULAR TREATMENT PLANT AND PROCESSING OF MATERIAL ON SITE AT THORLEY HALL FARM, THORLEY WASH, THORLEY, BISHOPS STORTFORD, HERTFORDSHIRE

Report of the Chief Executive and Director of Environment

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Local Member: Graham McAndrew

1. Purpose of Report

1.1 To consider application no. 3/2245-17 (CM0951) which is a S73 planning application seeking to vary two conditions (4 & 8) on planning permission no. 3/1304-13 to allow for the siting of a modular treatment plant and processing of material on site at Thorley Hall Farm, Thorley Wash, Bishops Stortford.

2 Summary

2.1 This application seeks to vary two conditions of planning permission 3/1304-13. Planning permission was granted in May 2014 for the construction of an agricultural reservoir for irrigation purposes. Development commenced in terms of the removal of material in September 2016.

2.2 The applicant asserts that the majority of the excavated material is good quality sand and gravel and that without processing it, it is not being put to best use. In order for the mineral to be used sustainably as a resource, the applicant seeks to vary Condition 8 to allow processing to take place on site.

2.3 The application proposes the provision on site of a low profile semi-mobile modular treatment plant and ancillary activities to treat the excavated materials arising from the construction of the irrigation reservoir. The plant and ancillary activities include stockpiles and silt and water management in the form of shallow excavated ponds. These ponds will be placed on the base of the first phase within the void already partially created.

3 Conclusion

3.1 It is concluded that the proposed variation of conditions (4 & 8) should be granted planning permission subject to the following 22 conditions:

1. Time Limit for Commencement
2. Completion of Development
3. Approved Plans
4. Abstraction Licence
5. Dust Management Scheme
6. Sound insulation on plant and machinery
7. Sheeting of Vehicles
8. Landscaping including fencing
9. Tree Protection Scheme
10. No removal of trees or hedges in bird breeding season
11. Ecological and landscape management plan
12. Bird Hazard Management Plan
13. Archaeological Investigation
14. The Pumphouse
15. Hours of Operation
16. Construction Traffic Management Plan
17. Limit on HGV movements
18. HGVs to turn left out of site
19. Wheelwashing and cleaning facilities
20. Removal of bunds and ancillary temporary development
21. Flooding measures
22. External Lighting

3.2 Conditions 2, 5 and 8, as set out in planning permission 3/1304-13, have been deleted.

4 Description of the site, and existing and proposed development

4.1 The application site is currently partially excavated, aiming to construct a 44 million gallon agricultural reservoir to include the removal of 200,000 cubic metres of sand and gravel during the construction process, together with the temporary construction of 3 metre high bunds and ancillary development.

4.2 The site for the reservoir is located in a rural area and comprises arable fields to the south of Bishops Stortford. Thorley Wood, part Ancient Woodland, is important for its mature trees and interesting ground flora and lies to the north of the site of the reservoir. The settlement of Thorley Wash lies to the east of the site along London Road. The site is situated in the Metropolitan Green Belt and is Agricultural Land classified Grade 2.

- 4.3 The excavated area for the reservoir has temporary grassed soil bunds around it, which retain topsoil and subsoil on site. They are intended both as a storage mechanism, but also form a temporary screen for the duration of the working operation.
- 4.4 During the construction period of the reservoir, the original application stated that there would be likely to be a daily average of 80 HGV movements (40 in, 40 out) subject to a maximum of 100 movements (50 in, 50 out). The hours of operation are 07.00 to 18.00 Monday to Friday with no operations taking place on Saturday, Sundays or Bank Holidays. The current application does not propose to change these conditions.
- 4.5 Condition 8 of the original agricultural reservoir permission states that. "No processing of materials removed in connection with the construction of the reservoir shall take place on site and all material shall be removed for processing off-site." This application (no.3/2245-17) proposes to remove that condition to allow on site processing and the new plans submitted require an amendment to Condition 4 of the original permission.

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.
- 5.2 3/0117-14 Application for engineering works to construct an underground pipe from Brookside Business Park to supply water to a proposed agricultural reservoir (planning application reference: 3/1304-13) to include a headwell, pump chamber, ancillary valve compartment and GRP kiosk (Permitted).
- 5.3 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 (Withdrawn)
- 5.4 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 (Withdrawn)

6 Consultations

- 6.1 East Herts District Council – Environmental Health comments that they do not wish to object to the application to vary conditions 4 and 8 of original planning consent 3/1304-13. But would however make the following observations:

- Noise: I note that condition 9 places certain restrictions on the operator in respect of noise from plant, and these would also apply to the amended site operations to involve the processing of sand and gravel material on site. I also note the report from the acoustic consultant which generally advises that noise levels will reduce from the previously proposed siting of the modular treatment plant. However, there is one location where there is predicted to be a marginal increase in noise levels, although they should still be within permitted operating levels. I would suggest that the following condition be included in any consent granted to cover the situation should any complaints about noise from the revised operations be received:

In the event of any complaint about noise arising from on-site operations being received by the Minerals Planning Authority, the applicants shall carry out noise monitoring at a point agreed with the Minerals Planning Authority, with the results reported to the same authority in writing. The monitoring and report shall include:

- Attended measurements to verify compliance with the prescribed noise levels. Measurements to be undertaken by a competent person of the free field Equivalent Continuous Noise Level, LAeq,1hr of on-site operations . Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for such effects
- Monitoring to be undertaken from 0700-1800 for at least one working day at the agreed monitoring location, with the main items of plant and machinery used on site in operation;
- Details of equipment used for monitoring
- The logging of all weather conditions, approximate wind speed and direction and both onsite and off site events occurring during measurements including 'phased out' extraneous noise events
- Any breaches of the prescribed noise levels, together with recommended noise mitigation measures to ensure that future compliance with the prescribed levels is achieved

Reason: To enable compliance with prescribed noise levels for on-site operations to be adequately monitored and assessed in the event of complaints about noise being received.

- Dust: I note the existing controls imposed by condition 7 and the approved dust management scheme and have no further recommendations in this respect.
- External Lighting: I would recommend that a condition is included to require the applicant to submit details of the external lighting scheme for approval to ensure that any glare or obtrusive light impacts on neighbouring land users are avoided by good lighting design:

External lighting

Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and no external lighting

shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the area, and in accordance with policy ENV23 of the East Herts Local Plan Second Review April 2007.

6.2 East Herts District Council – Planning Authority

The District Council considers that the proposal represents inappropriate development in the Green Belt and is by definition harmful. The development will also result in a 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.

From the information submitted it is not clear what other harm is associated with the proposal, and consultation responses from consultees in respect of landscape, ecology, archaeology, highways, rights of way, and flood risk will need to be taken into account.

The County Council will need to have regard to Green Belt policy as set out in Section 9 of the NPPF to assess whether there are any very special circumstances that clearly outweigh the harm plus any other harm.

The District Council also draw your attention to the allocation of the site to the north of the application site for development in policy BISH5 of the emerging District Plan.

6.3 London Stansted Airport

The proposed development has been closely examined for aerodrome safeguarding, particularly birdstrike avoidance. The variances to the agreed planning permission include the formation of shallow ponds for water and silt management. These have the potential to be very attractive to hazardous flocking species such as waders (particularly Lapwing and Golden Plover) and waterfowl, especially at weekends and evenings when the site is not operating. Therefore, we request that it is a Condition of approval, that the existing BHMP now needs to be extended to cover the processing phase of the development, not just from when the reservoir is filled with water, to mitigate any increase in risk to flight safety.

6.4 Environment Agency No comments.

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

The application is for the variation of condition 4 (Approved Plans) and condition 8 (No Processing of Material on-site) on permission 3/1304-13 to allow for the siting of a modular treatment plant and processing of material on site. The existing permission (3/1304-13) includes a condition controlling the amount of HGV traffic. (Condition 20) The

processing of material on site is likely to reduce the amount of HGV traffic generated from the site. Provided the highway conditions imposed by the current permission remain in force, there are no highway issues associated with the proposal and therefore the Highway Authority does not wish to restrict the grant of planning permission.

- 6.6 Hertfordshire County Council – Historic Environment (Archaeology)
The proposed treatment plant is to be located in the eastern part of the site, in the area subject to excavation for an agricultural reservoir. Archaeological monitoring of the initial soil stripping of this area has already been carried out, via 3/1304-13, and a report on the results of these archaeological investigations is awaited. In this instance therefore there are no comments to make upon the proposal.
- 6.7 Hertfordshire County Council – Lead Local Flood Authority has no comments to make.
- 6.8 Hertfordshire County Council – Landscape Officer
The proposals include the installation of a temporary modular treatment plant, stockpile area, and a series of three silt/water management ponds.

It is intended to carry out the proposed development during the temporary operational stage of an extant permission that comprises the extraction and removal of materials, to enable the construction of the agricultural reservoir, and is due for completion in June 2021.

With regards to landscape effects, the proposed development is well located within the site boundary of the extant permission, below ground level within a completed excavation phase. The proposed development affects an area of previously disturbed ground, which will form part of the completed reservoir floor, and is not considered to be of any importance to local landscape character.

With regards to visual effects, the proposed development is well screened to views from the wider area, due to its location at 58m AOD approximately 6m below existing ground level at approx. 64m AOD, and the screening effect of the temporary bunds associated with the extant permission. From a distance, the variations in topography and intervening roadside vegetation also provide effective screening to views.

Overall the proposed development results in the intensification of industrial activity during the operational stage of the extant permission to construct an agricultural reservoir. However, the proposals are not considered to result in any significant landscape and visual effects, above those already experienced as a result of the extant permission, due to the short term and temporary nature of the proposed development, located well within the extant permissions site boundary,

below ground level within an area of previously disturbed ground, and well screened to views from the surrounding area.

6.9 Thorley Parish Council

Variation of Condition 4 (Approved Plans)

Thorley Parish Council objects to the proposed variation of condition 4. Our hope is that the variation to Condition 8 will be refused, rendering the change to Condition 4 unnecessary.

Variation of Condition 8 (No Processing of material on site)

Thorley Parish Council wish adherence to the original planning consent which is that the main consent is for the excavation/formation of an agricultural reservoir. Mineral extraction is a by-product of the excavation, and should be removed from site directly to a processing plant without any stockpiling or processing being done on site, as per condition 8 which precludes processing of the materials on site.

The applicants state that the job would get done more quickly and efficiently if the material was processed on site. This seems, to Thorley Parish Council, to be highly unlikely as the materials would have to be excavated, stockpiled and then moved to be processed, stockpiled again and then shipped off site as materials are sold.

The effect of the removal of condition 8 would, in our view, change the nature the site from the original reservoir to a quarry retail outlet. Thorley Parish Council supported the original planning application on the basis that there would be no processing of material on site. It would strongly suggest that nothing has changed to warrant any amendment to the planning consents already granted. The work should continue expeditiously, following the existing conditions of the planning consent. Indeed we would ask HCC to ensure that current processing of material should cease.

Thorley Parish Council contends that the proposed change of plan and installation of a processing plant will result in noise and dust pollution to residents of the Parish and as such should be refused.

6.10 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.

- 6.11 Natural England has no comments to make on the variation of conditions 4 and 8.
- 6.12 A total of 91 consultation letters were sent out and 2 letters objecting to the application have been received. The issues of concern can be summarised as:
- Noise
 - Light pollution
 - Flood risk
 - Should stick to original approval
 - Visible plant
- 6.13 Publicity for the application was as follows: A site notice was erected on 29 September 2017 and the application was advertised in the Herts & Essex Observer on 5 October 2017.

7 Planning Policy National Planning Policy Framework 2012 (NPPF)

Development Plan

- 7.1 The Development Plan is the Hertfordshire Minerals Local Plan Review and the East Herts Local Plan. The NPPF is also a material consideration.
- 7.2 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 Policy

- 8.1 The principal issues to be taken into account in determining this application are:
- Impact of development on local area in terms of noise & dust
 - Temporary nature of development
 - Green Belt
 - Reasons for the changes to the original permission

- 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 seeks a change to the original permission. The original planning permission stipulated that there would be no processing of material on site, covered by Condition 8. The primary purpose of the original planning permission was to create a void within which an agricultural reservoir for irrigation at Thorley Hall Farm could be formed. The operational development itself would however result in the extraction of minerals which would be used elsewhere. Extraction commenced in 2016 with materials being removed off site in accordance with the original planning permission. However, the applicant decided that they would prefer to process the material (sand and gravel) on site and an application was submitted to provide a processing plant area on land to the north of the existing site. The previous application was withdrawn in March 2017.
- 8.4 This current application has sought to address the concerns previously identified. The previous application was withdrawn, but the concerns at that time were that the development would have adversely affected openness in the Green Belt, potentially caused a risk to flooding and would potentially have resulted in a deterioration of ancient woodland. The processing would have taken place on land to the north of the current planning application site in a visible location adjacent to an ancient woodland.
- 8.5 This planning application has been designed to provide the necessary plant and equipment for processing within the created void. As a result the mobile plant and screener would be sited at a level lower than the surrounding land level approximately 6 metres down from the original land level. The bunds have already been formed around the edges of the void and as a result the plant will be mainly screened from view. Therefore, although the proposal is in the Green Belt it still preserves the openness of the Green Belt and is classed as a mineral development. It also does not affect the purposes of the Green Belt which makes the proposal appropriate development in the Green Belt. The proposal therefore complies with national policy in relation to Green Belt, and would be a temporary feature only until 2021. It also complies with Hertfordshire Minerals Local Plan Policy 18 as visual intrusion would be minimised.
- 8.6 The original planning application envisaged the construction of the reservoir taking place over a five year period. This new planning application for the treatment plant would not extend that and the applicant has confirmed that the engineering/construction work would still take place within the 5 year time period. It is considered that this is an important factor in the determination of this planning application.

- 8.7 The proposed treatment process would be a wet process which does not generate dust. There would be a series of shallow ponds and water would be required for these as part of the process, which would be re-used in a re-circulatory system that requires no discharge. In terms of noise, it is not anticipated that there would be any increase in noise as a result of the altered process, compared to the noise that is currently generated by the reservoir construction. Due to its location being a relatively long distance from surrounding properties, there is no significant concern regarding noise. It is therefore considered that with regard to noise and dust, the proposal is acceptable in relation to Policy 18 of the Hertfordshire Minerals Local Plan.
- 8.8 Many aspects would remain the same as under the original permission e.g the hours of operation being 7am to 6pm Mondays to Fridays and lorry movements to and from the site would not need to increase and would even be likely to reduce by 10%. The overall time of the construction project would not be lengthened and would be completed at the same time as if unprocessed material was removed from the site (ie within 5 years). There would be no greater impacts on ecology, archaeology, landscape, lighting, water, flood, noise, air quality or dust, rights of way or utilities. The Bird Hazard Management Plan should be updated to take account of the new water within the void in the form of shallow ponds attracting birds. This can be required via condition.
- 8.9 The proposal is for a temporary treatment plant and associated ancillary activities. The applicant requires the planning permission in order to use the excavated material more sustainably as a mineral resource. Given it has been found to be good quality sand and gravel, this proposal is required in order to put the material to its most sustainable use. As such the proposal to process the material on site is considered to be a sustainable use which should result in lower HGV movements for the duration of the construction of this agricultural reservoir. The fact that the proposal would take no longer than the existing approved construction time, together with no greater impact on the factors listed above means that there are no grounds to refuse this proposal and therefore planning permission should be granted.
- 8.10 The proposal is not contrary to national or local policy and would not cause any significant adverse effects in the locality.

9 Recommendation

- 9.1 It is recommended that planning permission should therefore be granted subject to the following 22 conditions:
1. Time Limit for Commencement
 2. Completion of Development
 3. Approved Plans
 4. Abstraction Licence
 5. Dust Management Scheme

6. Sound insulation on plant and machinery
7. Sheeting of Vehicles
8. Landscaping including fencing
9. Tree Protection Scheme
10. No removal of trees or hedges in bird breeding season
11. Ecological and landscape management plan
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Background information used in compiling this report

NPPF
Herts Minerals Local Plan Review
Representations received