

5h 3/12/0272/FP – Alterations to and retention of the service road, together with associated re-grading of the deposited material at Old Clay Pit, St Mary's Lane, Hertingfordbury, SG14 2LE for Mr Daniel Green

Date of Receipt: 17.02.2012

Type: Full – Minor

Parish: HERTFORD

Ward: HERTFORD – CASTLE

RECOMMENDATION:

That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be commenced within 4 months of the date of this permission.

Reason: The works proposed are required to satisfactorily remedy an existing breach of planning control which is the subject of an extant enforcement notice and for which the compliance period has not been met.

2. Approved Plans (2E10) – insert '287.1.2A; 287.14; and 287.113B'
3. Landscape Design proposals (4P12) – b), e), i), j), k) and l)
4. All hard and soft landscape works shall be carried out in accordance with the approved details within 6 months of the commencement of the development hereby permitted. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the timely provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007 and national guidance in section 7 of the National Planning Policy Framework.

5. Prior to the commencement of the works hereby permitted, (unless the works are undertaken between the months of September-February), a qualified ecologist shall, on the day of commencement, undertake observations and recording for nesting birds within the immediate area. A record and observations and results shall be submitted to and

3/12/0272/FP

approved in writing by the Local Planning Authority and any subsequent mitigation shall be undertaken in accordance with the findings of the survey.

Reason: To protect the habitats of breeding birds which are protected under the Countryside and Rights of Way Act 2000, and in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007 and PPS9: Biodiversity and Geological Conservation.

5. Prior to the commencement of the importation of any material, a construction management plan covering the number and route of daily lorry movements associated with the delivery and storage of materials shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall proceed in accordance with the approved details.

Reason: To ensure the impact of construction vehicles on the local road network is minimised.

6. The service road and parking/turning areas hereby permitted shall be used solely for the purposes of agriculture within the site and for no other purpose whatsoever.

Reason: To ensure that the development remains for purposes that are appropriate within the Metropolitan Green Belt

Directives:

1. Other legislation (010L)
2. You are reminded of the need to comply with the extant enforcement notice issued on the site on 3rd December 2010 and upheld on appeal on 19th August 2011. Failure to comply with the requirements of that notice will render you liable to prosecution and the existence of this planning permission (whether part implemented or not) will not justify any further delay in complying with that notice.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007 and in particular policies GBC1, GBC14, ENV1, ENV2, ENV11 and ENV16) and the National Planning Policy Framework. The balance of the considerations having regard

3/12/0272/FP

to those policies; the previous application 3/10/2032/FP and the appeal decision in relation to the extant enforcement notice on the site is that permission should be granted.

_____ (027212FP.LP)

1.0 Background:

- 1.1 The site is an old clay quarry in the Metropolitan Green Belt, just outside the village of Hertingfordbury as shown on the attached Ordnance Survey plan. The site is accessed via a track along its south-eastern boundary, along which runs a public bridleway, and this is accessed from St Mary's Lane. The track runs through open countryside, with fields to the north-east and the perimeter trees screening the clay pit to the south-west.
- 1.2 Members may recall that in the autumn of 2010 unauthorised works were carried out at the site to alter land levels and create a new service road at the site.
- 1.3 A retrospective application for these works was refused and an enforcement notice was served requiring the removal of the imported spoil from the site and the restoration of the land to its former levels. An appeal against the refusal of the planning permission and the enforcement notice was dismissed in August 2011 (subject to a variation of the time period for compliance with the requirements of the notice).
- 1.4 This current application, however, seeks permission to alter the existing unauthorised works and thereby to overcome the concerns of the Inspector in dismissing that appeal. It proposes reducing the width of the access track, re-grading land levels on the site and carrying out additional planting of native hedges and trees.

2.0 Site History:

- 2.1 In 2004, (3/04/1297/FP) retrospective planning permission was refused for an access and car parking area and enforcement action subsequently undertaken. The notice was appealed, the outcome of which was that planning permission was granted for the widening of the access but refused for the car park.
- 2.2 An enforcement notice was issued on 3 December 2010 requiring the removal of unauthorised works and the restoration of the site back to former levels.

3/12/0272/FP

2.3 Application lpa 3/10/2032/FP for the retrospective construction of a new service road from the existing access to livestock areas and a store and associated levelling work was dismissed at appeal on grounds that the development would cause harm to the character and appearance of the open countryside. The enforcement notice was upheld.

3.0 Consultation Responses:

3.1 Hertfordshire Biological Records Centre note that there is ecological data for the site in respect of Badger setts. The protected species survey report found that badgers were present and the development would require a licence from Natural England. In regard to birds it is recommended that the site clearance be carried out during September-February, but if works are necessary during March-August the protocol as outlined in the survey report should be followed.

3.2 The Environment Agency comment that they are satisfied that the reprofiling works will have no significant impact on groundwater conditions beneath the site.

3.3 Hertfordshire Highways have commented that if the proposal requires the importation of material then they would need further information from the applicant, however if no importation was required, they would not wish to restrict the grant of permission.

3.4 The Herts and Middlesex Wildlife Trust recommend that the application should be withdrawn due to insufficient information on protected species.

3.5 Environmental Health advises that any permission shall include conditions for construction of hours of working and soil decontamination.

3.6 The Councils Landscape Officer comments that the species proposed for planting is acceptable. However, he considers that the proposed re-grading across the site appears to include for yet more landfill disposal which should be avoided, although the regarding/removal of material to be found on the site is acceptable.

He considers that a 10m track in this location is still excessive and would like to see it reduced to 5m. He also considers that woodland planting should be used, instead of grass, to the verges.

4.0 Town Council Representations:

4.1 The Hertford Town Council objects and comment that:

'The Committee had received many representations regarding this proposal and shared in the exasperation of the comments recorded in respect of the lack of enforcement and the failure of the applicant to act as instructed by the Planning Inspectorate to return the Old Clay Pit to its original contours. The Committee was particularly concerned regarding the urbanising of bridleway 57 and St Mary's Lane, the denigration of this important site within the rural landscape and the widening of the entrance, which had led to the dumping of spoil. The long running difficulties at nearby Terrace Wood were also noted, where similar development took place. To give approval to this application would be to undermine and bring into disrespect the previous decisions of the East Herts Council Development Control Committee and the Planning Inspectorate.'

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 6 letters of representation objections including the Hertingfordbury Conservation Society have been received which can be summarised as follows:

- Previously dismissed on appeal. Work still on going with spoil added to site
- Question what service road and land is to be used for
- Concern that this may lead to further development
- Concern that bridleway will become a road – disturbance to horse riders and dog walkers
- Loss of trees
- Smell and noise affecting local environment

6.0 Policy:

6.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1	Appropriate Development in the Green Belt
GBC14	Landscape Character
ENV1	Design and Environmental Quality

3/12/0272/FP

ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species

6.2 The National Planning Policy Framework is also of relevance to the determination of this application.

7.0 Considerations

7.1 The main issues relate to:

- Whether the proposal is appropriate development
- Impact on the character and appearance of the landscape
- Impact to protected species
- Neighbour amenity impacts
- Highway impacts

Principle of development

7.2 The principle of the development was a matter discussed by the Inspector on the previous application (3/10/2032/FP). He commented that 'Viewed purely in terms of Green Belt policy, it (the roadway) has an insignificant effect on openness. It does not read as an urbanising feature and it has only a slight raised profile. It does not amount to development which would encroach on the open countryside, as one of the five purposes of including land in the Green Belt ... I therefore conclude that the formation of the roadway and associated levelling work does not amount to inappropriate development for purposes of PPG2 and development plan policy. No harm to the Green Belt from inappropriateness arises'

7.3 However, the inspector went on to say that "the works nevertheless appear as a visually intrusive feature" and would harm the character and appearance of the surrounding countryside. Whilst, during the course of the appeal, revised plans were presented to the appeal inspector; he indicated that he could not consider them as there was no opportunity to carry out the normal public consultation process in respect of the amendments.

7.4 The alterations to the roadway currently submitted are to reduce the width of the service road and soften the edges with re-grading and planting. The applicant indicates that the development is required for agricultural purpose, the intention being to farm the land in association with a small holding (Beavers lodge Farm, off Tylers Causeway in

Newgate Street Village) about 3 miles to the south where livestock is reared intensively because of inadequate grazing. As such, in terms of Green Belt policy, I concur with the previous Inspector that the development would not have a significant effect on openness and, provided that it is used for agricultural purposes, it would not amount to inappropriate development as set out in policy GBC1 of the Local Plan and the National Planning Policy Framework. Very special circumstances are not therefore required to permit the development in this case.

- 7.5 Nevertheless, the impact of the proposed works on the character and appearance of the area remain a valid material consideration in this case.

Character and appearance of the landscape

- 7.6 At the site access, wide-ranging views of the site and of the works which have taken place, open up. Views of the access as it crosses the site and continues along the far side of the site are readily obtained across open land within the site. Within the previous dismissed appeal, the Inspector noted that the roadway was wide and had a recognisably engineered appearance and that the levelling works which provided a broad, flat area mid-way along its length added to this impression. Where tipped material had been used to form the side slopes, this had been left uncovered by soils and they have an untidy, unfinished appearance along much of its length with no wider landscaping undertaken to soften its visual impact. It was for these reasons that development was concluded to give rise to harm to the character and appearance of the open countryside.
- 7.7 This application proposes changes to 4 areas of the site. Within Area 1 (to the north of the access track) it is proposed to strengthen existing planting with woodland trees. At Area 2A (part of the service road) it is proposed to reduce the track width from 21 metres to 10 metres with the re-grading of the bank and introduction of topsoil and grass. At Area 2B (western end of track) it is proposed to reduce the track width from 7.6 metres to 3.5 metres, (albeit with a wider turning area to the end of the track), again with re-grading of the bank and the introduction of topsoil and grass. Within Area 3 (south of the entrance to the site) it is proposed to re-grade contaminated soil, cap with 1 metre of clay, and introduce topsoil and grass. The re-instatement of a 3 metre track to the pit valley is also proposed within this section.
- 7.8 Given the significant reduction to the width of the roadway, especially at Area 2A, together with the re-grading of extensive areas of verges with

the introduction of topsoil and grass and trees and hedge planting, the overall development would be one wherein the roadway no longer becomes unduly prominent and of a recognisably engineered appearance. The adverse visual impact from tipped material that forms the side slopes would be removed and replaced by a soft landscaped appearance and the wider tree and hedge planting will soften the visual impact of the development. Overall the development would assimilate well within the locality and not appear harmful to the character and appearance of the rural area.

Impact to protected species

- 7.9 In regards to protected species, this is in respect to badgers and bats. The Ecological Survey Report demonstrates that badgers would not be unduly harmed by the development subject to mitigation to be secured through the licence they will be required to obtain from Natural England. In terms of birds, any site clearance shall be carried out during September-February, unless on the day that works are to start, observations be undertaken by a experienced ecologist to observe for the presence of nesting birds, together with a hand search for incubating birds – the results of which shall be submitted to the Local Planning Authority. Subject to the above the development will create no adverse impact to protected species.

Neighbour amenity impacts

- 7.10 Given the nature of the proposal and intended use for agricultural purposes and the distance from any neighbours, no adverse impact to neighbour amenity is anticipated.

Highway impacts

- 7.11 Clarification from the applicant has been received that outlines that 2000 cubic metres of clay will be required for the works. Highways have commented that whilst the highway network surrounding the site is not ideally suited for significant additional HGV movements, the number of movements associated with this volume of material does not represent a significant number that would justify a highway objection.
- 7.12 Given the agricultural use of the site, and in spite of the vehicle movement generated from the importation of clay, no adverse impact upon the bridleway is anticipated. It is considered appropriate and necessary however to impose a condition in respect of traffic management to ensure that the impacts of construction vehicles is minimised.

8.0 Conclusion:

- 8.1 Accordingly, Officers consider the development to be appropriate within the Green Belt, with no adverse impact upon the landscape character of the area or upon protected species, neighbour amenity or in regards to highway matters. It is therefore recommend that planning permission be granted for the development subject to the conditions set out above.