

OFFICER REPORT FOR REGULATORY SERVICES COMMITTEE - 7th January 2016

APPLICATION NO. P1578.15
WARD: Upminster **Date Received:** 26th October 2015
Expiry Date: 25th January 2016

ADDRESS: Land Adj Bramble Fishing Lake
Bramble Lane
Upminster

PROPOSAL: Continuation of landscaping works to landfill site without compliance with condition 5 (hours of operation) and condition 8 (completion date) attached to planning permission reference: P0115.14

DRAWING NO(S): Plan As Proposed Including Site Levels - Drawing No. 2013/08/07
Revision D

RECOMMENDATION It is recommended that **planning permission be GRANTED** subject to the condition(s) given at the end of the report

CALL-IN

This application has been called-in by Councillor Van den Hende as it is considered that the proposed change in hours of operation would result in loss of amenity to nearby residential properties. In addition objection is raised to the additional 12 month period of completion because the extension would prolong the unsightly appearance of the site. The applicant claims that he has been unable to complete the works in the original six months due to a wet summer. This summer has been one of the driest on record so it is hard to see how this can be accurate. If the time is increased for a further 12 months this would include another winter period which will probably have adverse weather so the potential exists for yet further extension of time applications.

SITE DESCRIPTION

The site comprises approximately 1.7ha of open, agricultural land located circa 100m to the north of Bramble Lane, near Upminster. The site forms a rectangular area of land; its western and eastern boundaries being approximately 86m and 60m in length respectively, and its northern and southern boundaries being approximately 280m in length. The site's western boundary adjoins an access track, which leads to Bush Farm to the north, whilst the northern boundary adjoins open agricultural land associated with Bush Farm. The southern boundary, at its western end, lies adjacent to a lake, which is also owned by the applicant; whilst at its eastern end, the site's southern boundary adjoins land associated with Bramble Farm, which includes a residential property further to the south. The site's eastern boundary abuts Sunnings Lane.

The site forms part of a wider area of land which, it is understood, was the subject of sand and gravel extraction in the 1950s. In subsequent years, the sand and gravel workings were back filled with various types of waste overlaid with topsoil. The standard of restoration is very poor by modern standards, and this is reflected in the quality of the land at surface level, which is only able to support the cultivation of a limited number of crops and is subject to poor drainage.

The site is not located within a conservation area but does form part of the Metropolitan Green Belt.

DESCRIPTION OF PROPOSAL

In April 2014 planning permission was granted for landscaping work at land adjacent to Bramble Fishing Lake, Bramble Lane (application reference: P0115.14). The permission, in essence, allowed approximately 9,000m³ (10,800 tonnes) of material to be imported to the site to improve the agricultural quality of the land. With regard to this, it was proposed that approximately 600mm of existing capping material would be scraped and stockpiled in bunds along the southern boundary. Inert material (clay) was then proposed to be imported, raising the level of land between 450-600mm, before the scraped material was then re-spread. The justification for the works was that the material would create a low permeability cap to remove potential pathways from the sub-surface and potentially contaminated material (landfill) to the topsoil; reduce the movement of contaminated ground waters; improve drainage; and in doing so allow the site to be brought into a more active agricultural use.

The applicant as part of application reference: P0115.14 originally anticipated that the material required for the development could be imported over an ten week period, with an additional two weeks required for engineering and profiling. In the interests of ensuring the completion of the development, and the site's timely restoration, condition 8 of the permission granted limited the engineering operations approved to a six month period. This period expired on the 27 October 2015.

The application before the local planning authority seeks a twelve month extension to complete the development. In addition to the above, the applicant seeks to vary the currently permitted hours of operation. With regard to this, the applicant is seeking the following hours of operation:

08:00-16:30 Monday to Friday;

08:00-12:00 on Saturdays;

And at no times on Sundays and Bank/Public Holidays.

All other details of the development would remain as originally approved.

RELEVANT HISTORY

P0585.15 - Variation of Conditions 3, 11 and 12 of P0507.14 -

3 - to permit Hours of Use to 21.00 - 08.00 hours

11 - to permit parking for 3 cars

12 - number of persons fishing to decrease to 6

Apprv with cons 09-07-2015

Q0100.14 - Discharge of Conditions 3, 4, 6, 9, 11, 12 and 16 of P0115.14

DOC Discharge FULL 09-10-2014

P0115.14 - Landscaping works to Landfill Site

Apprv with cons 25-04-2014

P0206.13 - Inert material importation and engineering operations to create safety ledge and island within the lake together with excavation to increase average lake depth from 3m to 3.8m

Apprv with cons 11-10-2013

CONSULTATIONS / REPRESENTATIONS

Seven properties were directly notified of this application. The application was also advertised by way of press advert and site notice. Three letters of representation have been received. The letters of representation received all seek to reiterate original objections to the proposal and that the plans lack clarity. In respect of this, concern is raised with regard to the justification for the works; that the 30% figure quoted for the amount of the project completed is optimistic; that poor weather is in-part blamed for the lack of progress to date when we have had one of the driest summers on record; and general noise and landscape impact from the proposed works. It is considered that the application would result in an unacceptable prolongment and encroachment on privacy.

Essex and Suffolk Water - No comments received.

Environment Agency - No comments to make.

Highway Authority - No objection.

Historic England - No comments to make. Do not consider that it is necessary for this application to be notified to Historic England.

London Borough of Havering Environmental Health - No objection.

National Grid - Due to the presence of National Grid apparatus in proximity to the specified area, the applicant should contact National Grid before any works are carried out to ensure our apparatus is not affected by any of the proposed works.

Thames Chase - No comments received.

Thames Water - No comments to make.

Thurrock Council - No comments to make.

RELEVANT POLICIES

LDF

CP10 - Sustainable Transport

CP11 - Sustainable Waste Management

CP15 - Environmental Management

CP16 - Biodiversity and Geodiversity

CP17 - Design

DC32 - The Road Network

DC42 - Minerals Extraction

DC45 - Appropriate Development in the Green Belt

DC47 - Agriculture

DC51 - Water Supply, Drainage and Quality

DC52 - Air Quality

DC53 - Contaminated Land

DC54 - Hazardous Substances

DC55 - Noise
DC56 - Light
DC58 - Biodiversity and Geodiversity
DC61 - Urban Design
W1 - Sustainable Waste Management
W4 - Disposal of inert waste by landfilling
W5 - General Considerations with regard to Waste Proposals

OTHER

LONDON PLAN - 2.6 - Outer London: Vision and strategy
LONDON PLAN - 5.14 - Water quality and wastewater infrastructure
LONDON PLAN - 5.16 - Waste net self-sufficiency
LONDON PLAN - 5.17 - Waste capacity
LONDON PLAN - 5.19 - Hazardous waste
LONDON PLAN - 5.21 - Contaminated land
LONDON PLAN - 6.12 - Road network capacity
LONDON PLAN - 7.4 - Local character
LONDON PLAN - 7.13 - Safety, security and resilience to emergency
LONDON PLAN - 7.14 - Improving air quality
LONDON PLAN - 7.15 - Reducing noise and enhancing soundscapes
LONDON PLAN - 7.19 - Biodiversity and access to nature
LONDON PLAN - 7.22 - Land For Food
NPPF - National Planning Policy Framework
NPPW - National Planning Policy for Waste
PPG - Planning Practice Guidance

MAYORAL CIL IMPLICATIONS

Given the proposed type of development, this application is exempt from CIL contributions.

STAFF COMMENTS

It is considered that the key issues for consideration in the determination of this application are the potential impacts on nearby amenity as a result of the additional period and increased hours of operation; and any potential impact on highways. The aforementioned issues are considered in the below sections of this report, in context of the principle of the development.

PRINCIPLE OF DEVELOPMENT

It is considered that the conclusions of the report produced for application ref: P0115.14 are key in the determination of this application. The conclusion stated that it was considered that the proposal would result in significant environmental benefits and that, in terms of its impact on the Green Belt, visual and residential amenities, and its highways impact, that, subject to the use of conditions, it would not result in any significant adverse impacts.

In granting planning permission for the development previously it is considered that the Council have accepted the principle of the development and that any impacts associated would not be so

significant to warrant refusal. The land to which this application relates is considered of a poor condition, being underlain by contaminated land (a former landfill). Owing to this, as noted when planning permission was first granted for re-engineering works on the site, contaminated ground water is therefore potentially able to leach into surrounding land. The proposal was accepted in context of this and the benefits the proposal would realise overall.

Works with regard to the development commenced on the 27 April 2015. However the applicant has stated that approximately only 30% of the works have been completed to date. This it is suggested is due to a number of factors but predominately because the applicant has struggled to obtain suitable material and soil stripping, and importation, has been delayed by wet weather. The applicant, on reflection, acknowledges that the six month period originally envisaged for completion was optimistic and therefore seeks an additional 12 months to complete the project. Accepting that the project is reliant on the availability of appropriate material, the applicant considers a 12 month period to complete the project should be sufficient. However, due to the timing of application, also requests consideration be given to an 18 month extension (to include two summer periods).

In addition to the above, a condition imposed on the planning permission granted was that operations were only to take place between:

08:30-16:30 Monday to Friday;

08:30-12:00 on Saturdays;

And at no times on Sundays and Bank/Public Holidays.

The applicant has stated that this has further restricted his ability to import materials to the site, with many contractors choosing to use other sites with earlier opening times. As a consequence the applicant has requested, in addition to the additional period to complete the project, that this condition be relaxed and operations are allowed to commence at 08:00am instead of 08:30am Monday to Saturday. In support of this, and in respect to potential amenity impacts, attention is drawn to the fact that planning permission for landscaping improvement works to the adjacent fishing lake, which similarly includes the importation of material, is permitted 08:00-18:00 Monday to Friday and 08:00-13:00 on Saturdays (application reference: P0585.15).

In context that the development, as a whole, has previously been deemed acceptable and the actual development details are not proposed to change, it is not considered that the Council could refuse the application as principally contrary to policy. The impacts associated with the development have not changed nor have they increased in severity. The fact that the site hasn't however been completed within the original projected timeframe does nevertheless mean that any continued development would prolong the impacts, irrespective of their degree of severity. The comments and concerns raised in the letters of public objection received are noted. However, it is not considered that these impacts, as previously considered, are sufficient to warrant refusal. Whilst the Council appreciates the local frustration that the site has not yet been completed, the difficulties the applicant has encountered are accepted and it is not considered that the delay is in anyway planned or malicious. In respect of this, the applicant in having an operational site is required to pay an annual licencing fee to the Environment Agency and as such unnecessary delays have additional financial consequences for the applicant.

In consideration of the above, and that should planning permission be refused the benefits

originally envisaged by the development would not be achieved, it is recommended that the applicant be granted an additional period of time to complete the development. It is considered that the applicant may however, based on the current rate of completion, have difficulty completing the project within 12 months (given that this will only include one summer period). The recommendation before Members is for an additional 12 month period. However, should Members consider it appropriate this could be extended to 18 months to include two summer periods - i.e. completion before 30 September 2017.

With regard to the proposed variation to the hours of operation, in consideration that permission has been granted for a similar development to commence at 08:00am and no objection has been raised from the Council's Environmental Health officer it is recommended that the hours of operation condition furthermore be relaxed. It is not considered that operations starting 30 minutes earlier on-site would give rise to significant amenity impacts and as such be contrary to relevant policies.

It is considered that the ultimate objective with this site is to reduce the environmental risk and bring the site into an active agricultural use. If planning permission is refused the project cannot be completed and the site is left poorly restored and of a potential contamination threat to local watercourses.

HIGHWAY / PARKING

No changes are proposed to the site access and/or the number of vehicle movements associated with the development. A maximum of ten HGV vehicles would visit the site per day, over the proposed period of importation. The Highway Authority has raised no objection in principle to a prolonged period of importation and in context that the number of vehicle movements associated, per-se, would not increase, it is not considered that the development would adversely impact on highway safety or efficiency.

OTHER ISSUES

Environmental Impact Assessment:

The development is not representative of a Schedule 1 project as detailed within the Town and Country Planning (EIA) Regulations 2011 (as amended). However, potentially the development does fall within Schedule 2 under Section 11 (Other Projects), Class b (Installations for the disposal of waste). The screening threshold for such projects is the disposal is by incineration; the area of the development exceeds 0.5ha; or the installation is to be sited within 100m of any controlled waters. An EIA was not submitted or required with the parent permission to which this variation of condition application relates (application reference: P0115.14). Section 13 (Changes and extensions), Class b of the Regulations relates to any change to or extension of development of a description listed, where that development is already authorised, executed or in the process of being executed. The screening thresholds for such development is the development as changed or extended results in significant adverse effects on the environment; or the changes result in the development, as proposed, exceeding the thresholds of the relevant Section of the Regulations. In this case, it is considered that the variations proposed would not result in any impacts of more than local significance and as such EIA is not required.

KEY ISSUES / CONCLUSIONS

In the absence of significant amenity impacts and that the development has not materially changed from when planning permission was originally granted, it is recommended that planning permission be granted and conditions 5 and 8 of planning application ref: P0115.14 duly varied to allow the development to be completed and the benefits of the development to be realised.

RECOMMENDATION

It is recommended that **planning permission be GRANTED** subject to the following conditions:

1. SC32 (Accordance with plans)

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

Reason:-

The local planning authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with policy DC61 of the Development Control Policies Development Plan Document.

2. SC17 (Temporary use) INSERT DATE

The engineering operations hereby approved shall be completed within twelve months of the date of this decision notice. Following the completion of the approved engineering operations, and within a further six months, the site shall be landscaped in accordance with the details approved as part of condition 3.

Reason:

In the interests of ensuring the completion of the development and the site's restoration in a timely fashion and to comply with policies CP15, CP16, CP17, DC42, DC47, DC53, DC55, DC58 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

3. Non Standard Condition 31

On completion of the importation of material, the development shall be landscaped in accordance with the scheme detailed on drawing titled: 'Plan as proposed including site levels', reference: 2013/08/07 C. All planting, seeding and/or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason:-

In accordance with Section 197 of the Town and Country Planning Act 1990, to enhance the visual amenity of the development and to ensure that the development accords with policies CP16, CP17, DC42, DC47, DC58 and DC61 of the Development Control Policies Development Plan Document and policy W4 and W5 of the Joint Waste Development Plan Document.

4. Non Standard Condition 32

The development shall be undertaken in accordance with the wheel wash details approved by the local planning authority, decision letter dated 20/06/2014, pursuant to application reference: Q0100.14. The approved facilities shall be installed and used at relevant entrances to the site throughout the duration of engineering works.

Reason:-

In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area and in order that the development accords with policies DC32 and DC61 of the Development Control Policies Development Plan Document.

5. Non Standard Condition 33

Operations in connection with the development hereby approved shall only take place between the hours of 8.00am and 4.30pm Monday to Friday, and between 8.00am and 12.00pm on Saturdays, and not at all on Sundays and Bank Holidays/Public Holidays.

Reason:-

To protect residential amenity and in order that the development accords with policies DC55 and DC61 of the Development Control Policies Development Plan Document and policy W5 of the Joint Waste Development Plan Document.

6. Non Standard Condition 34

The development shall be undertaken in accordance with the construction method statement approved by the local planning authority, decision letter dated 09/10/2014, pursuant to application reference: Q0100.14. The development shall be carried out in accordance with the approved statement.

Reason:-

To protect residential amenity, reduce the potential for significant impacts and in order that the development accords with policies CP15, CP16, CP17, DC32, DC51, DC52, DC53, DC55, DC58 and DC61 of the Development Control Policies Development Plan Document and policy W5 of the Joint Waste Development Plan Document.

7. Non Standard Condition 35

The development shall be undertaken in accordance with the phasing details approved by the local planning authority, decision letter dated 09/10/2014, pursuant to application reference: Q0100.14. The development shall be carried out in accordance with the approved details.

Reason:

In the interests of ensuring that the development is completed in a logical manner, the site restored in a timely fashion and to comply with policies CP15, CP16, CP17, DC42, DC47, DC55, DC58 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

8. Non Standard Condition 36

No initial deposition, storage, processing, handling or transfer of material shall take place at the site outside of the area defined, for such purposes, on drawing titled: 'Site survey plan with existing levels', reference: 2013/08/06 A.

Reason:

In the interests of amenity, highway safety and ensuring that the development takes place in a safe and efficient manner and in accordance with policies DC52, DC55 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

9. Non Standard Condition 37

The development shall be undertaken in accordance with the contamination and monitoring details approved by the local planning authority, decision letter dated 09/10/2014, pursuant to application reference: Q0100.14. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development does not adversely impact on the quality of ground and surface water and to comply with policies CP15, CP16, CP17, DC47, DC51, DC53, DC54, DC58 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

10. Non Standard Condition 38

Within one month of the completion of the engineering operations hereby approved, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason:

To ensure that any necessary remediation works are carried out within a reasonable timescale, to ensure that the site no longer poses a risk to controlled waters and to comply with policies CP15, CP16, CP17, DC47, DC51, DC53, DC54, DC58 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

11. Non Standard Condition 39

If, during development, contamination not previously identified is found to be present at the site then no further development, unless otherwise agreed in writing with the local planning authority, shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority for such works. The remediation strategy shall be implemented as approved.

Reason:

To protect controlled waters and ensure that any unsuspected contamination within the site is managed and/or disposed of appropriately and to comply with policies CP15, CP16, CP17, DC47, DC51, DC53, DC54, DC58 and DC61 of the Development Control Policies Development Plan Document and policies W1, W4 and W5 of the Joint Waste Development Plan Document.

12. Non Standard Condition 40

Stockpiled material shall not at any time be above a height of 2 metres from ground level.

Reason:

In the interests of residential and visual amenity and in accordance with policies CP17, DC47 and DC61 of Development Control Policies Development Plan Document and policy W5 of the Joint Waste Development Plan Document.

13. Non Standard Condition 41

The development shall be undertaken in accordance with the vehicle monitoring details approved by the local planning authority, decision letter dated 09/10/2014, pursuant to application reference: Q0100.14. The development shall be carried out in accordance with the approved details.

Reason:

In the interests of highway safety and amenity and in accordance with policies CP10, DC32, DC52, DC55, DC56 and DC61 of the Development Control Policies DPD and policy W5 of the Joint Waste Development Plan Document.

INFORMATIVES

1. **Approval - No negotiation required**

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.