



# REGULATORY SERVICES COMMITTEE

29 June 2017

# REPORT

**Subject Heading:**

P0671.17  
Mardyke Farm, Dagenham Road,  
South Hornchurch, Rainham, RM13 7RS

Variation of condition 1 (timeframe), 8 (landscaping) and 10 (drainage) attached to planning permission reference: P0455.14 (restoration, re-contouring and landscaping of land) to enable completion of outstanding works by July 2018 and amendments to the approved landscaping and drainage schemes  
(Application received 21st April 2017)

**SLT Officer:**

Steve Moore  
Director of Neighbourhoods

**Report Author and contact details:**

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework  
National Planning Practice Guidance

**Financial summary:**

Not relevant

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[x]
Places making Havering	[x]
Opportunities making Havering	[x]
Connections making Havering	[x]

## SUMMARY

This application seeks the continuation of development (restoration, re-contouring and landscaping of land) at Mardyke Farm, most recently approved by application reference: P0455.14, without compliance with three conditions. In this regard the applicant is seeking an additional period of time, until July 2018, to complete the development together with amendments to the site landscaping and drainage schemes - in so much as the applicant now intends to leave the eastern drainage ditches and ponds as existing without intervention.

The variations proposed have been assessed in context of the site history and all material planning considerations and staff raise no policy objection. Accordingly, it is recommended that planning permission be granted subject to conditions and appropriate variation of the existing legal agreement.

## RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant, by 29 December 2017, varying the existing Legal Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 and this development, to:

- Ensure that the existing schedules and covenants carry forward to this new planning permission.

In the event that the s106 agreement is not completed by such date the item shall be returned to the committee for reconsideration.

- The applicant shall furthermore pay the Council's reasonable legal costs associated with the legal agreement, prior to the completion of the agreement, irrespective of whether the agreement is completed.

Subject to above, it is recommended that the Director of Neighbourhoods be authorised to enter into the aforementioned variation and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. With the exception of aftercare works, the development hereby approved, including the approved engineering operations and landscaping works, shall be completed by 31<sup>st</sup> July 2018.

Reason: In the interest of amenity and to ensure the full restoration of the site within a reasonable timescale.

2. All construction traffic shall use the existing access onto Dagenham Road. There shall be no other vehicular access to the site.

Reason: To ensure that operations take place in an orderly fashion, with minimum harm to the amenities of the area and local infrastructure.

3. With the exception of after-care and tree planting, the development hereby permitted shall only be carried out between 08.00 and 18.00 on weekdays, 08.00 and 13.00 on Saturdays and not at all on Sundays and public holidays.

Reason: In the interests of local amenity, in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

4. The development shall be undertaken in accordance with the noise controls approved under condition 4 of planning permission P0432.10.

Reason: In the interests of local amenity, in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

5. The monitoring of noise emissions from the development hereby permitted shall be undertaken in accordance with the scheme approved under condition 5 of planning permission P0432.10. Monitoring data shall be retained during the life of the operation and shall be supplied to the local planning authority on request.

Reason: In the interests of local amenity, in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

6. All vehicles, plant and equipment used on the site shall be silenced, maintained and operated in accordance with the manufacturers specifications.

Reason: In the interests of local amenity, in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

7. The control and monitoring of dust emissions from the development hereby permitted shall be undertaken in accordance with the scheme approved under condition 7 of planning permission P0432.10 and shall be implemented for the life of the development.

Reason: In the interests of local amenity, in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

8. The development shall be undertaken in accordance with the approved landscaping plans approved as part of condition 8 of planning permission P0432.10, except as amended by the plans referenced "96000-LANDSCAPE-001 V1 (Revision E)" and "96000-BOUNDARY-022", dated 04/04/2017 and 05/06/2014 respectively, along with the fencing and gate details submitted with planning permission P0455.14 received 09/06/2014.

Reason: To ensure appropriate and proper restoration of the site, in accordance with the details approved.

9. Any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure appropriate and proper restoration of the site, in accordance with the details approved.

10. The development, with the exception of approved alterations to the eastern ecological zone as shown on plan reference "96000-LANDSCAPE-001 V1 (Revision E)", shall be undertaken in accordance with the drainage scheme approved as part of condition 10 of planning permission P0432.10.

Reason: To prevent the increased risk of flooding to third parties, to the site itself, to improve water quality and to enhance biodiversity.

11. Only restoration soils that are in accordance with the site specific environmental permit and exemption issued by the Environment Agency shall be imported onto the site and used for infilling.

Reason: To ensure that imported material is fit for purpose and proper restoration of the site to public amenity.

12. The final layer of covering material shall be at least 0.6m depth of topsoil or other soil-forming materials and this shall be increased to at least 1.5m depth in areas to be planted with trees and shrubs. Topsoil shall be graded to form the approved final contours and to provide an even surface for planting and grass sowing. The finished surface shall be ripped to disturb the whole soil profile to a depth of at least 0.4m in order to alleviate compaction. Soil material shall only be spread when friable in order to minimise compaction. Any soil or other material which is surplus to requirements shall be removed from the site within 1 month on completion of restoration.

Reason: To ensure proper restoration of the site.

13. Restoration materials shall not be stored in mounds exceeding 3m in height and all other materials shall be stored in mounds not exceeding 4m in height.

Reason: To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site.

14. The development shall be undertaken in accordance with the wheel washing details approved as part of condition 14 of planning permission P0432.10.

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.

15. All heavy goods vehicles that leave the site during the course of the approved engineering operations shall be cleaned in accordance with the details approved as part of condition 14 above.

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.

16. Internal haul roads shall be constructed in accordance with the plans and specifications approved under planning permission P0432.10. All vehicles and machinery shall travel to the individual phases of the development within the site on the designated haul roads. Any alterations or amendments to the haul roads location and/ or specifications shall be submitted to and approved in writing by the local planning authority prior to their implementation. Upon completion of the site restoration, the haul roads shall be broken up and removed and the site restored in accordance with the details approved under condition 8 above.

Reason: In the interests of local amenity, in order to ensure timely restoration of the site and in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF.

17. The site perimeter fencing approved under condition 16 of planning permission P0432.10 shall be retained for the duration of the restoration works. Lockable gates shall be provided at the vehicular access to the land. The gate shall be kept locked at all times when the site is closed and the security fencing maintained throughout the construction period. Upon completion of the engineering operations, the perimeter fencing shall be removed or modified in accordance with the details approved as part of condition 8 above.

Reason: In the interests of local amenity, in order to ensure timely restoration of the site and in accordance with Policy DC61 of the Development Control Policies Development Plan Document and the guidance contained in the NPPF. For the purposes of this condition "Engineering Operations" means any phase of the development that has been completed and the final layer of topsoil spread made ready for planting/seeding.

18. The development hereby approved shall be undertaken in accordance with the details approved as part of condition 17 of planning permission P0432.10, and shall continue to be undertaken in accordance with the requirements of that condition.

Reason: To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the Policy DC53 of the Development Control Policies Development Plan Document.

19. The development hereby permitted shall be undertaken in accordance with the ecological management plan and protected species management plan approved as part of condition 18 of planning permission P0432.10. Any change to operational, including management, responsibilities shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with Policies DC58 and DC59 of the Development Control Policies Development Plan Document.

20. The development shall be undertaken in accordance with the details approved as part of condition 19 of planning permission P0432.10 for the removal or long-term management/eradication of Japanese knotweed, giant hogweed and New Zealand pygmyweed at the site.

Reason: To ensure the site is restored and managed and in the interests of overall ecological enhancement and public amenity value.

21. The local planning authority shall be notified in writing within 5 working days of the completion of the approved infilling of material and engineering operations, and within 5 working days of the completion of those landscaping and restoration works approved as part of condition 8 above.

Reason: In the interests of ensuring the development is completed on time and to establish the commencement date for the required aftercare period.

22. A plan showing the final site levels (with contours at 1m intervals), shall be submitted for the approval in writing of the Local Planning Authority, within 1 month following the completion of the approved infilling of material and engineering operations. A further plan showing final site levels shall be submitted to the Local Planning Authority for its written approval within 1 month following the completion of the landscaping and restoration works approved as part of condition 8 above.

Reason: In the interests of ensuring the development is completed in time and in accordance with the details approved.

#### Informative(s)

1. A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per

request or £28 where the related permission was for extending or altering a dwellinghouse, is needed.

2. The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:
  - a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development; and
  - c) Fairly and reasonably related in scale and kind to the development.
3. 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.

## REPORT DETAIL

### **1.0 Site Description**

- 1.1 The application site is located off Dagenham Road and is an irregular shaped area of land, approximately 37ha in size. The northern boundary of the site adjoins Dagenham Road along with residential properties located along Thorogood Way. The eastern boundary of the site predominately adjoins residential properties along Stanley Road North and Betterton Road, but also a sports field at its southern end. The southern boundary adjoins the aforementioned sports field but also at its western end residential development within or in close proximity to Orchard Village. The site is bounded to the west by Beam River, forming the Borough boundary with Barking and Dagenham.
- 1.2 The site has been subject to active land restoration since April 2011, involving the importation and deposition of inert material, and its shaping to form levels approved as part of planning permission reference: P0432.10. The proposed restoration of the site is to public open space and nature conservation.
- 1.3 In terms of designations, the site forms part of the Green Belt and in part forms part of a flood risk area and Site In Nature Conservation (SINC). The site is also noted as potentially contaminated by the Council, mindful of previous landfill operations on-site.

### **2.0 Description of Proposal**

- 2.1 This application seeks to vary condition 1 (timeframe), 8 (landscaping) and 10 (drainage) attached to the current planning permission for the site (application reference: P0455.14). The proposed variations seek to allow outstanding works to be completed by July 2018 (as per P0455.14 works were due to be completed by April 2017); and amend the approved landscaping and drainage

schemes in so much as, following discussions with Natural England, the applicant has decided to leave an area to the east of the site (the ecological zone) alone and not make any changes to it (i.e. it will be left in its current condition).

2.2 In all other respects, the development would be completed as previously approved.

### **3.0 Relevant History**

3.1 This site has an extensive planning history, with the site having been worked for sand and gravel since the late 1940s. Following extraction, the site was landfilled, but by modern standards, poorly restored. Planning permission was granted, on appeal, in 1995 (ref: P0186.93) to further restore the site through the importation of some 1.25 million cubic metres of inert materials. It was suggested that the material would cap the historical landfill and facilitate restoration to informal public open space and woodland. Approximately 70% of material was imported when works ceased in 2003 - leaving the site and scheme largely unfinished. The works re-commenced in 2011, following the grant of planning permission reference: P0432.10, which as referred previously in this report was varied by way of application reference: P0455.14. Full details of these two applications are provided below for completeness:

- P0432.10 - Restoration, re-contouring and landscaping of land without complying with conditions 2 (time limit for completion), 9 (landscaping), 11 (phasing), 13 (drainage ditches) and 15 (clay cap) of Planning Permission P0186.93. Approved subject to conditions and legal agreement 01/07/2010.
- P0455.14 - Variation of Conditions 1 and 8 of P0432.10 - extension of time for completion and reduce the number of site access points to two. Approved subject to conditions and legal agreement 17/07/2014.

### **4.0 Consultations/Representations**

106 properties were directly notified of this application. The application was also advertised by way of site notice and press advert. No letters of public representation have been received.

Environment Agency - No objection.

Highway Authority - No objection.

Havering Friends of the Earth - Object on the basis that the planned re-landscaping appears to be proceeding in a haphazard manner, with no long-term oversight. Various extensions of time have previously been granted but yet the project still remains unfinished. Questions are furthermore raised with regard to if infilling has been completed; if Natural England have commented and confirmed that the proposed amendments to the landscaping and drainage plans are at their request; and compliance with existing (other) conditions.



Havering Friends of the Earth also raise a number of concerns with regard to the availability of information and documentation submitted with historical applications on the Council's website.

London Borough of Havering Environmental Health - No objection.

London Borough of Havering Lead Local Flood Authority - No comments to make.

Natural England - No comments to make.

## **5.0 Relevant Polices**

LDF Core Strategy and Development Control Policies Development Plan Document (LDF): CP10 - Sustainable Transport, CP11 - Sustainable Waste Management, CP15 - Environmental Management, CP16 - Biodiversity and Geodiversity, CP17 – Design, DC22 - Countryside Recreation, DC32 - The Road Network, DC42 - Minerals Extraction, DC45 - Appropriate Development in the Green Belt, DC48 - Flood Risk, DC51 - Water Supply, Drainage and Quality, DC52 - Air Quality, DC53 - Contaminated Land, DC55 – Noise, DC56 – Light, DC58 - Biodiversity and Geodiversity, DC59 - Biodiversity In New Developments, DC60 - Trees and Woodland, DC61 - Urban Design, DC72 - Planning Obligations, W1 - Sustainable Waste Management, W4 - Disposal of inert waste by landfilling and W5 - General Considerations with regard to Waste Proposals

London Plan: 2.8 - Outer London: Transport, 5.12 - Flood Risk Management, 5.13 – Sustainable Drainage, 5.14 - Water Quality And Wastewater Infrastructure, 5.16 - Waste Net Self-Sufficiency, 5.17 - Waste Capacity, 5.18 – Construction, Excavation and Demolition Waste, 5.19 - Hazardous Waste, 5.21 - Contaminated Land, 6.1 - Strategic Approach, 6.3 - Assessing Effects Of Development On Transport Capacity, 6.12 - Road Network Capacity, 7.4 - Local Character, 7.14 - Improving Air Quality, 7.15 - Reducing And Managing Noise, Improving And Enhancing The Acoustic Environment And Promoting Appropriate Soundscapes, 7.16 – Green Belt, 7.19 - Biodiversity And Access To Nature, 7.21 - Trees And Woodlands and 8.2 - Planning Obligations

Government Guidance: National Planning Policy Framework, National Planning Practice Guidance and National Planning Policy for Waste

## **6.0 Staff Comments**

### **Principle of Development**

- 6.1 The restoration works to this site have a long planning history, as previously outlined in this report. Staff, mindful of this, and the previous planning permissions issued, consider the Council has accepted the works, in principle, as appropriate, justified and policy compliant.

- 6.2 In context of the above, staff have sought to assess this application solely on the basis of the amendments proposed. With regard to this staff nevertheless note that this site is located in the Green Belt and an assessment of the circumstances advanced to prolong the development (landraising as an inappropriate use/operation) will therefore be necessary.

### **Variation of Condition 1 (Timeframe)**

- 6.3 Conditions imposed as part of application reference: P0455.14 required the development including the approved engineering and landscaping works, but excluding the aftercare works, to be completed by 11<sup>th</sup> April 2017.
- 6.4 The applicant has suggested that the drainage and site boundary works and landscaping have not yet been completed on site. The applicant has suggested that this was due to the fact the earthworks (the importation of material) took longer to complete than expected. The delay it is suggested primarily resulted from extenuating circumstances, but namely extended periods of bad weather.
- 6.5 It is understood that all material required to complete the landform are now on-site, with final shaping works taking place to the landform. The additional period sought by this application, until July 2018, would therefore simply enable landscape seeding; and final ecological mitigation work to be undertaken in the appropriate season.
- 6.6 Mindful of the current state of the site and progression towards completion, it is not considered that the activities proposed to be occurring within the additional time period would fundamentally impact on the openness of the Green Belt, or result in impacts which have previously not been considered to be outweighed by the benefits the development would realise overall.
- 6.7 The proposed extension of working would delay final restoration and accordingly result in some visual harm to the amenity of the Green Belt through the prolongment of on-site works. However, given the works outstanding are fundamental to achieving the intended restoration, and the extension sought is relatively short, staff, whilst disappointed that the development hasn't been able to complete as per the 2014 permission, raise no objections to the additional period to complete the outstanding works. Subject to previous safeguarding conditions being re-imposed, but also mindful of the actual works likely to be occurring on-site, staff foresee no significant amenity impacts arising from the extension to nearby properties.

### **Variation of Condition 8 (Landscaping) and 10 (Drainage)**

- 6.8 The applicant has suggested that following discussions with Natural England, preference exists to leave the ecological area/zone to the east of the site untouched. Originally the scheme sought a series of improvement works to this area, improving drainage ditches and constructing a series of ponds. However, it is now suggested that concerns exist in respect of the impact this work could have on the ecological status of the site as existing. The ponds did not perform

an active function in the drainage plans for the site so their removal has no implications in this regard.

- 6.9 It is noted that the landscaping scheme originally approved, as part of the 2010 application, suggested that the scheme sought to maximise potential ecological value. These works (the works to the ecological area/zone) were however only one aspect of the overall restoration package. In context of this and that Natural England has raised no concerns to the amendments staff raise no principle objection from an ecological perspective.
- 6.10 In terms of drainage, it is understood that the capacity of the drainage ditches and ponds/swales as existing is similar to that which was proposed. The works proposed to the ditches simply sought to re-define/re-locate the ponds in a more co-ordinated manner, to facilitate more uniformed management of the site. In context of this, and that the Environment Agency has raised no objection from a flood risk perspective, staff raise no objection to the proposal to simply leave this area as is.
- 6.11 To confirm, staff do not consider the changes proposed to the landscaping scheme, and accordingly the drainage plan, in any way undermine the overall quality of the restoration which would be delivered.

### **Other Considerations**

#### **Environmental Impact Assessment**

- 6.12 Consideration has been given to Section 13 (b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) given the size of the development and that the proposal, as a whole, falls within the scope of a Schedule 2 development (Section 11 (b)). In this instance, in context of the variations proposed and guidance contained within the National Planning Practice Guidance, it is not considered that the development would result in any impacts of more than local significance. Accordingly, it is not considered that an Environmental Impact Assessment needs to be submitted in support of the application. In coming to this decision staff have carefully considered the planning history and whilst it is noted an ES was submitted with application ref: P0432.10, it was not considered an update was required with P0455.14 mindful of progress made with the development and the nature of the variations proposed in that case.

### **7.0 Conclusion**

- 7.1 In the absence of significant amenity impacts and that the variations are considered acceptable from a landscape perspective, it is recommended that planning permission be granted subject to the conditions previously imposed as part of planning application ref: P0455.15 (albeit updated) and the extant legal agreement being varied as appropriate.

## IMPLICATIONS AND RISKS

**Financial implications and risks:** None

**Legal implications and risks:** Legal resources would be required for the variation of the legal agreement. The amendment proposed to the existing Section 106 is nevertheless required to ensure that the existing schedules and covenants which are outstanding and relate to this site are carried forward.

**Human Resources implications and risks:** None

**Equalities implications and risks:** The Council's planning policies are implemented with regard to equality and diversity.

## BACKGROUND PAPERS

1. Application form, plans and associated documents submitted with planning application ref: P0671.17, validated by the Local Planning Authority 21/04/2017.