

# REGULATORY SERVICES COMMITTEE REPORT

13 October 2011

<b>Subject Heading:</b>	<b>P1323.11 – Spring Farm / Rainham Quarry, Lauanders Lane, Rainham</b>
	<b>Variation of Condition 1 of planning permission P1361.02, to extend the period of mineral processing to 31st December 2015, and consequential amendments to other conditions.</b>
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<b>Policy context:</b>	<b>Local Development Framework London Plan National Planning Guidance</b>
<b>Financial summary:</b>	<b>None</b>

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

Clean, safe and green borough	[X]
Excellence in education and learning	[ ]
Opportunities for all through economic, social and cultural activity	[X]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[ ]

## SUMMARY

This planning application proposes the variation of a planning condition under the provisions of Section 73 of the Town and Country Planning Act 1990. Planning permission P1361.02 granted consent for a change of use to secondary aggregate and soil production (waste recycling); the re-erection of mineral processing plant;

and the erection of a bagging plant, all within Rainham Quarry. Only the bagging plant aspect of the proposal has been undertaken.

Condition 1 of planning permission P1361.02 states that the approved development is permitted for a limited period, and that the site should be cleared and the land restored by 17<sup>th</sup> March, 2010. The planning application under consideration proposes the variation of condition 1 of planning permission P1361.02 to enable the period of working to continue until the 31<sup>st</sup> December 2015. Officers are recommending that planning consent be granted, subject to conditions and planning obligations set out below.

## RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Legal Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended), to secure the following:

- The completion of a new legal agreement to ensure that the operator does not use land at Rainham Quarry for the processing of skip waste in accordance with planning permission P1361.02 and its successor, P1323.11, should planning permission be granted. Planning permission P1361.02 granted approval for the erection of plant and for the change of use of land to allow for the processing of skip and construction waste. Planning application P1323.11 seeks to extend the life of planning permission P1361.02. A legal agreement is required to prevent the skip waste use being implemented with the Developer/Owner covenanting not to seek compensation for agreeing not to implement the processing of skip waste use.

That staff be authorised to enter into a legal agreements to secure the above and upon completion of those agreements, grant planning permission subject to the conditions set out below:

1. This permission shall be for a limited period only, expiring on the 31<sup>st</sup> December 2015, on or before which date the development carried out under this permission shall be removed and the site reinstated in full accordance with the 'Revised Restoration and After Scheme' dated March 2000 and approved in accordance with conditions 6 and 7 of planning permission P2239.87.

Reason:

In pursuance of the timely restoration of the site and in the interests of the visual amenity of the surrounding area and the Green Belt, in accordance with Policy DC61 of the with Development Control Policies Development Plan Document, and the guidance contained in PPG2.

2. All plant, machinery, structures and buildings hereby permitted shall be removed within three months from the expiry date referred to in condition 1 above.

Reason:

In pursuance of the timely restoration of the site and in the interests of the visual amenity of the surrounding area and the Green Belt, in accordance with Policy DC61 of the with Development Control Policies Development Plan Document, and the guidance contained in PPG2.

3. No materials brought to the site under this permission shall be stored other than within the 'operating area' defined on Figure 7.1 (approved as part of planning permission P1361.02) and shall not be stored to a height exceeding 5 metres above the adjacent ground level of the operating area. No materials shall be stored in any other part of the application site.

Reason:

In the interests of the visual amenity of the surrounding area and the Green Belt, in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in PPG2.

4. No work shall be carried out on the site other than between the hours of 0700hrs and 1800hrs Mondays to Fridays, between the hours of 0700hrs and 1300hrs on Saturdays, and not at any time on Sundays, Bank or Public Holidays.

Reason:-

In the interests of local amenity in accordance with Policy DC61 of the with Development Control Policies Development Plan Document, and the guidance contained in PPG2.

5. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications approved as part of planning permission P1361.02.

Reason:-

The Local Planning Authority consider it essential that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if carried out differently in any degree from the details submitted.

6. With the exception of the bagging plant, which shall be retained in accordance with the materials and colour scheme approved as part of condition 6 of planning permission P1361.02, none of the proposed new plant, machinery, structures or buildings shall be installed or erected until

details of their proposed materials and the colour scheme for any external cladding has first been submitted to and agreed in writing by the Local Planning Authority.

Reason:

In the interests of the visual amenity of the surrounding area and the Green Belt, in accordance with Policy DC61 of the Development Control Policies Development Plan Document, and the guidance contained in PPG2.

7. The surface drainage system shall be retained in accordance with the details approved in accordance with condition 7 of planning permission P1361.02.

Reason:

Condition 7 of planning permission P1361.02 has been discharged by the Minerals Planning Authority and the approved details continue to be applicable in this case.

8. The development hereby approved shall be undertaken in accordance with the details that were approved in accordance with condition 8 of planning permission P1361.02.

Reason:

Condition 8 of planning permission P1361.02 has been discharged by the Minerals Planning Authority and the approved details continue to be applicable in this case.

9. The discharge of surface water from the site shall be in accordance with the scheme approved under condition 9 of planning permission P1361.02.

Reason:

Condition 9 of planning permission P1361.02 has been discharged by the Minerals Planning Authority and the approved details continue to be applicable in this case.

10. No soakaways shall be constructed in contaminated ground or in any areas that have been infilled.

Reason:

To prevent the pollution of ground water

11. All access by heavy goods vehicles to and from the plant and machinery hereby permitted shall only be from the existing access point onto Launderers Lane.

Reason:

In the interests of amenity and highway safety.

## **INFORMATIVES**

### **1. Reason for Approval:**

The proposal is considered acceptable having regard to the relevant criteria of Policies DC22, DC32, DC41, DC43, DC45, DC58, and SSA6 of the LDF Core Strategy and Development Control Policies DPD, and all other material considerations.

## **REPORT DETAIL**

### **1. Site Description**

- 1.1 The application site comprises land within an established sand and gravel working, which is largely worked-out. The application site is primarily in use for the processing, storage, and bagging of minerals, with fixed plant, a mineral stockpiling area, and associated site buildings present.
- 1.2 The site forms an irregular shape and is broadly located within an area bounded by Launderers Lane to the west and Warwick Lane to the north, with the remainder of Rainham Quarry forming the southern and eastern boundaries of the site. The site is designated as Green Belt and as a Mineral Safeguarding Area in the Local Development Framework.
- 1.3 Mineral extraction continues to occur at the Spring Farm site, which is located to the south west of the site under consideration, on the western side of Launderers Lane. The sand and gravel extracted at Spring Farm is sent to Rainham Quarry (the application site) for processing and bagging.
- 1.4 The site is well screened from the surrounding area by extensive tree planting and screen bunding.

### **2. Description of Proposal**

- 2.1 Condition 1 of planning permission P1361.02 states that:

*“This permission shall be for a limited period only expiring on 17 March 2010 Restoration of the site in accordance with Revised Restoration and Aftercare Scheme dated March 2000.”*

- 2.2 This planning application seeks approval for the variation of condition 1 of planning permission P1361.02. The condition requires that the formerly approved development, namely the bagging plant, replacement processing plant, and waste processing use, be removed and the site restored by

March 2010. Only the bagging plant has been implemented and this should have been removed in March 2010; this application therefore seeks retrospective approval.

- 2.3 Owing to the economic climate that has prevailed since 2007, the output of sand and gravel at Spring Farm Quarry has significantly declined, which has delayed the point at which the quarry would be fully worked-out. Whilst no end date was imposed limiting the period of working within Spring Farm Quarry, the processing facilities associated with it and located within Rainham Quarry, are time-limited.
- 2.4 The operator anticipates that mineral extraction at Spring Farm Quarry will be completed by the end of December 2015 and the period of working within the Rainham Quarry processing and bagging area therefore needs to be extended to reflect this.

### **3. Relevant History**

- 3.1 The planning permission of most relevance to this application is as follows:

P1361.02 - Change of use of land to allow for secondary aggregate and soil production (waste recycling); re-erection of mineral processing plant; and the erection of a bagging plant – Approved.

- 3.2 The application under consideration has been submitted alongside three other planning applications that are related to the proposal and which seek variations to other existing planning consents. They are:

P0518.11 – Removal of condition 7 of planning permission P2098.04, removing the requirement to create a new access between Spring Farm Quarry and New Road.

P0593.11 – Variation of condition 1 of planning permission P0761.05, to allow for the continued use of development associated with the mineral processing area, at the Rainham Quarry site until December 2015 – Under consideration.

P0712.11 – Variation of condition 4 of planning permission P2239.87, to allow for the continuation of mineral processing until December 2015.

- 3.3 Summary

Rainham Quarry (processing area and bagging area)

P1323.11 – Variation of condition 1 of planning permission P1361.02 for the continuation of approved operations until December 2015 – Under consideration.

P1361.02 – Change of use for secondary aggregate and soil production (waste recycling); re-erection of mineral processing plant; and the erection of a bagging plant – Approved (03/04/2003).

Rainham Quarry (processing area)

- P0712.11 – Continuation of mineral processing at Rainham Quarry to December 2015 – Under consideration.
- P2099.04 – Variation of condition 4 of P2239.87 for the continuation of approved operations to September 2012 – Approved (15/01/2007).
- P2239.87 – Continuation of mineral processing to March 2010 and re-erection of concrete batching plant – Approved (17/03/1995).

Rainham Quarry (Bagging area)

- P0593.11 – Continued use of development approved by P0761.05 to December 2015 – Under consideration.
- P0761.05 Retrospective planning application for the retention of a portable office, unapproved changes to the processing plant, security fencing, and the extension of the aggregate storage area by about 0.08 hectares – Approved (17/06/2005).

Spring Farm Quarry (extraction area)

- P0518.11 – Access changes at Spring Farm Quarry - Under consideration.
- P2098.04 – Mineral extraction, infilling and restoration. Approved (15/01/2007).

**4. Consultations/Representations**

4.1 Statutory Consultees

- Environment Agency - No response to date.
- Natural England - No objections.

4.2 Non statutory Consultees

- Highways - No response to date.
- Environmental Health - No response to date.
- Rainham Conservation & Improvement Society - No response to date.

4.3 This application was advertised by site notice and a press advertisement, and notification letters were sent to adjacent addresses. The consultation period expires on 7<sup>th</sup> October, 2011. Members will be given an update at Committee should any further consultation responses be received following the completion of this report.

- 4.4 An objection has been received from one local resident (Warwick Lane, Rainham) stating that the operators cause dirt, pollution, noise, and damage to the public highway.

## **5. Relevant Policies**

- 5.1 DC22 (Countryside Recreation)  
DC32 (The Road Network)  
DC41 (Re-Use and Recycling of Aggregates)  
DC43 (Ready Mixed and Processing Plant)  
DC45 (Appropriate Development in the Green Belt)  
DC58 (Biodiversity and Geodiversity)  
DC61 (Urban Design)  
SSA6 (Rainham Quarry Community Woodland)

- 5.2 Relevant national planning guidance:

MPS1 (Planning and Minerals)  
PPS1 (Delivering Sustainable Development)  
PPG2 (Green Belts)

## **6. Staff Comments**

- 6.1 Introduction

- 6.1.1 This proposal is put before Planning Committee as the application complements three separate planning applications relating to Spring Farm and Rainham Quarries that are being reported to Committee.

- 6.1.2 In the event that planning permission is granted in this case, the proposal would result in a new planning permission being issued. Where appropriate, and subject to any necessary amendments, the conditions imposed on the last planning consent would need to be re-imposed in this instance.

- 6.1.3 The main issues to be considered by Members in this case are the principle of development, visual impact, local amenity, access considerations, and nature conservation.

- 6.2 Principle of development

- 6.2.1 The application site is located in a Mineral Safeguarding Area, a site of Borough Importance for Nature Conservation, the Thames Chase Community Forest, the Rainham Quarry Community Woodland, and within the Metropolitan Green Belt. Policy DC58 states that development within sites of nature conservation importance will be permitted subject to certain criteria. Policy DC22 states that opportunities to improve informal recreation in the countryside will be sought, whilst Policy SSA6 states that the site should be restored, and a community woodland created. The approved restoration and aftercare schemes approved in accordance with planning permission P2239.87, which are applicable in this case, recommend the

creation of woodland and areas of public access. The proposal is considered to be in accordance with Policies DC22 and SSA6.

- 6.2.2 Policy DC45 of the DPD states that planning permission for development in the Green Belt will only be granted where it includes certain types of development, which include minerals extraction and buildings deemed to be essential to it. Policy DC41 states that, subject to Policy DC43, aggregate recycling will be granted within mineral extraction sites. Policy DC43 of the DPD states that ready mixed and processing plant within the Green Belt will only be permitted at current mineral working sites and that they will be tied to the life of the relevant mineral extraction site.
- 6.2.3 Although the proposal relates to approved development, some of which has been implemented, it proposes allowing that development to continue for more than two years over and above what has been approved, which will delay this Green Belt site's restoration. The application effectively proposes the erection of temporary buildings and structures insofar as, if the application were to be refused, the existing structures under consideration would need to be removed in September 2012.
- 6.2.4 The development under consideration is located within Rainham Quarry and is associated with an existing mineral processing use. This mineral processing facility is essential to the continued winning and working of minerals at Spring Farm Quarry. The proposal is therefore considered to be in accordance with Policies DC41, DC43 and DC45.
- 6.2.5 The guidance contained in PPG2 is also of relevance. The preliminary assessment when considering proposals for development in the Green Belt is as follows:-
- a) It must be determined whether or not the development is inappropriate development in the Green Belt. PPG2 and the Local Plan set out the categories of appropriate development.
  - b) If the development is not considered to be inappropriate, the application should be determined on its own merits.
  - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies.
- 6.2.6 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It is for the applicant to show why permission should be granted and "very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations" (PPG2, paragraph 3.2).
- 6.2.7 In terms of Green Belt policy, this application proposes building operations (fixed plant and other structures) and a change of use (skip and building waste processing.) It is considered that the use of land for the processing of

aggregates, given the screened nature of the site and subject to height limits on any stockpiled material, would not significantly diminish the openness of the Green Belt.

6.2.8 The building operations under consideration, might normally constitute permitted development, except that the site handles imported sand and gravel in addition to minerals derived from the immediate site. The buildings are not included in the list of those building types considered to constitute appropriate development in PPG2. However, given that Policies DC43 and DC45 of the DPD explicitly support the proposal, and that the development under consideration is required for a temporary period to assist in the winning and distribution of valuable mineral resources, it is considered that very special circumstances exist to overcome the harm to the Green Belt by reason of inappropriateness. No other harm is identified, as discussed later in this report.

6.2.9 Accordingly, the proposal is considered to be acceptable in principle.

### 6.3 Visual Impact

6.3.1 Policy DC61 of the DPD states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area. Paragraph 3.15 of PPG2 states that the visual amenities of the Green Belt should not be harmed by development within or conspicuous from the Green Belt, by reason of their siting, materials or design.

6.3.2 The application under consideration proposes a temporary continuation of the period of working relating to previously approved development. The extension of operations would be for a relatively modest, additional period of two years and three months over and above what is already approved. The planning permission that would be varied permits waste processing and the erection of plant. Given the temporary nature of the proposal, it is considered that the proposed development, some of which is already in situ, in terms of its siting, scale and design, and the screened nature of the site, would not have a significant adverse impact on the visual amenities of the Green Belt or on the character of the surrounding area.

6.3.3 The nature of the proposal is such that it would be in accordance with Policy DC61 of the DPD and the guidance contained in PPG2.

### 6.4 Local Amenity

6.4.1 Policy DC61 of the DPD states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.

6.4.2 An objection has been received from a local resident living along Warwick Lane in Rainham. It is stated that the operator generates dirt, noise, and pollution. Members will be given an update regarding any comments that are made by Environmental Health officers.

6.4.3 Planning officers consider that the application proposes a relatively modest extension to the period of working of an existing development, in addition to other development that was formerly approved. It is considered that, given the nature of this development, including its siting, scale and design, there would be no significant adverse impacts on local or residential amenity if this application were approved. The proposal is considered to be in accordance with Policy DC61 of the DPD.

## 6.5 Access Considerations

6.5.1 Policy DC32 of the DPD states that new development which has an adverse impact on the functioning of the road hierarchy will not be allowed.

6.5.2 If the application being considered is approved, then mineral processing will be able to continue at the site for an additional two years and three months over and above what is already permitted, meaning there will be a continued impact on the highway network. Moreover, the operator will have the opportunity to implement a change of use of land to allow for the processing of skip and construction waste.

6.5.3 A separate planning application being considered by Members and referenced P0518.11 seeks approval for the non-implementation of a new road access between Spring Farm Quarry and New Road. The operator has agreed, should planning permission be granted for that proposal, to enter into a legal agreement that would prevent them from implementing the skip waste processing use. This is intended to limit the impact of additional traffic along Launderers Lane. Members should therefore be aware that the skip waste use being proposed as part of the application under consideration is unlikely to be implemented in the future.

6.5.4 A local resident has objected to the proposal stating that the operator's activities cause damage to the public highway network. The Council's Highway officers have considered the proposal and have raised no objections. In terms of its impact on highway safety and amenity, it is considered that the continuation of mineral processing at the application site would be acceptable and in accordance with Policy DC32 of the DPD.

## 6.6 Nature Conservation

6.6.1 The site is designated as a site of Borough Importance for Local Nature Conservation. Policy DC58 states that the biodiversity and geodiversity of sites of this nature will be protected and enhanced.

6.6.2 An Ecological Appraisal has been submitted with the application, which concludes that the proposed extension of the working period would not have any significant adverse impacts on the area's ecological assets. Natural England were consulted about this application and raised no objections.

6.6.3 In terms of its ecological impact, the proposal is considered to be acceptable and in accordance with Policy DC58 of the DPD.

## **7. Conclusion**

7.1 Officers consider the proposal to be acceptable, having had regard to Policies DC22, DC32, DC41, DC43, DC45, DC58, and SSA6 of the DPD, and all other material considerations, subject to the recommended conditions.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

None.

### **Legal implications and risks:**

Legal resources will be required to draft a new Section 106 agreement which is required to ensure that the applicants do not implement the skip-waste processing use.

### **Human Resources implications and risks:**

None.

### **Equalities implications and risks:**

None.

## **BACKGROUND PAPERS**

Application form  
Supporting Statement received on 25/08/2011.