

TO: PLANNING & REGULATORY COMMITTEE –
BY DELEGATION

DATE: DECEMBER 2011

BY: PLANNING DEVELOPMENT CONTROL TEAM
MANAGER

DISTRICT(S) REIGATE & BANSTEAD BOROUGH
COUNCIL

ELECTORAL DIVISION(S):
Horley West
Mrs Hammond

PURPOSE: FOR DECISION

GRID REF: 526023 144562

TITLE: MINERALS AND WASTE APPLICATION RE11/1694

APPLICATION DETAILS

Britaniacrest Recycling Ltd, Little Orchard Farm, 26 Reigate Road, Hookwood, Horley, Surrey, RH6 0HJ

Revised detailed scheme of landscaping pursuant to Condition 17 of planning permission ref: RE04/1403 dated 16 February 2005, superseding the detailed scheme of landscaping approved under planning permission ref: RE06/0759 dated 19 June 2006.

Applicant

Britaniacrest Recycling Ltd

Date application valid

27 September 2011

Period for Determination

27 December 2011

Amending Documents

- Vegetation Plan (Drawing No. 1101.E.01 Rev B) revised 7 November 2011;
- Aftercare Chart (aftercare operations chart) submitted 8 November 2011;
- Planting Schedule (Drawing No. 1101.E.02 Rev B) dated 17 November 2011.

BACKGROUND

Site Description

- 1 The 4ha application site is situated in a rural location within the Metropolitan Green Belt. It lies to the west of the A217 Reigate Road between Sidlow and Hookwood, some 1.2km north of Horley and 3km south of Reigate. The site is accessed directly off Reigate Road and shares an access with the residential property 'Little Orchard Farm', owned by the Managing Director of the applicant company. Residential properties line the A217 and border the site to the north.

- 2 A woodland known as Cruchfield Copse is located north west of the site. Cruchfield Copse is ancient semi natural woodland and has been designated a Site of Nature Conservation Interest (SNCI). A small area of woodland, which was perhaps once linked to Cruchfield Copse and is also a SNCI, borders the south western boundary of the application site. To the south lies a nursery, and farmland occupies land on the opposite side of the A217.
- 3 The site has bunds of varying heights of some 5 – 15m to the north west, west and south west of the site. At the maximum point the level of the land raises approximately 14m from the A217 to the rear of the site. There are currently high stockpiles of waste material stored in the western corner of the site. The site roadway of some 200m leads to the driver reception building, the two storey building which is used partly as offices and partly for waste recycling. The skip storage area lies directly behind the 'Little Orchard Farm' rear garden.

Planning History

- 4 In 1992 a planning application for a recycling centre ref: RE92/0149 was refused. Subsequently, enforcement action was taken against the use of the site as a waste transfer station involving the processing, recovery and recycling building and construction waste materials. However, following an Appeal and Public Inquiry, the enforcement notice was quashed and the waste transfer use declared lawful ref: T/APP/C/93/B3600/629193 dated 26 April 1994.
- 5 Planning permission was granted on 26 September 1995 for the construction of a waste bay and installation of a weighbridge under ref: RE95/0488 and the completion of a building referred to in the appeal decision so as to create a building of 281.7m² for use in connection with an existing waste transfer station (planning permission ref: RE95/0489). The demolition of the building referred to above and the erection of a part single and part two storey building to provide office accommodation, vehicle maintenance/storage and covered skip waste bay along with the construction of a parking area, retention of ticket office, erection of close boarded fence and formation of landscaped bund was granted planning permission on 13 March 1997 under planning permission ref: RE96/1335.
- 6 A planning application for a green waste composting plant with associated open fronted barn was refused on 30 November 1998 ref: RE98/0518. Consent was then granted for improvements to the existing access on 18 June 1999 under planning permission ref: RE99/0289. This consent was not implemented and has lapsed. Temporary planning permissions ref: RE99/1719 (approved 6 March 2000) and ref: RE01/0461 (approved 30 May 2001) related to the use of a mobile materials recovery plant. The planning permission for the mobile plant has now expired and the plant has been removed from the site.
- 7 A planning application ref: RE00/0660 for part redevelopment/part change of use of the site to a waste transfer and recycling centre was withdrawn on 28 March 2002 following a change of ownership of the site. Planning permission ref: RE04/1403 was granted on 16 February 2005, subject to conditions, for the rationalisation and enhancement of existing waste transfer and recycling facility, including erection of materials recycling/ recovery building, relocation of site access, removal and regarding of existing materials, retention of skip hire/ storage area, landscaping and ancillary matters. Condition 17 of planning permission ref: RE04/1403 states:

"Within one month of the date of the implementation of the planning permission hereby granted a detailed scheme of landscaping shall be submitted for the approval of the County Planning Authority in writing. Such a scheme shall protect the adjacent Site of Nature Conservation Interest (SNCI) area of ancient semi-natural woodland by the use of native species and include details of:

- a) *the positions, species, mixes and initial sizes of all new trees and shrubs*
- b) *the programme of implementation and phasing of the scheme*
- c) *the arrangements for subsequent protection, maintenance and replacement for a period of five years from completion of development*

The scheme as approved shall be carried out in full unless otherwise agreed in writing by the County Planning Authority.”

- 8 In November 2006 planning permission was granted (ref: RE06/0159) for a variation of Condition 3 of planning permission ref: RE04/1403 to allow the external stockpiling of waste or materials to be stored to a maximum of 85.65m AOD. This variation was sought as the ground levels within the site vary between 74.65m – 86.65m AOD and by placing a maximum figure this would ensure stockpiles would not go beyond this.
- 9 Planning permission was then granted on 22 June 2007 (ref: RE07/0678) for a variation of Condition 3 of planning permission ref: RE04/1403 to allow for an extension in operating hours throughout the week and also that for up to 10 days a year the site will be open to lorries both entering and exiting the site for 24 hours.
- 10 Most recently, details pursuant to conditions of planning permission ref: RE04/1403 were approved on 19 June 2006, namely a dust management scheme (Condition 15); details of a bat survey (Condition 16); and a detailed scheme of landscaping (Condition 17).

THE PROPOSAL

- 11 The applicant has submitted a revised detailed scheme of planting at the site pursuant to Condition 17 of planning permission ref: RE04/1403 dated 16 February 2005. This would supersede the detailed scheme of landscaping approved under planning permission ref: RE06/0759 dated 19 June 2006. The planting approved in 2006 (ref RE06/0759) has been unsuccessful in parts and discussions have therefore taken place between the applicant and Officers, in order to rectify this situation.
- 12 The submitted scheme included details of the number and species of a mixed woodland planting for the site frontages (bundling to north and south of the entrance onto Reigate Road). To the rear of the site, the submitted scheme also includes details of ‘bank stabilisation’ tree planting, which would be a 50/50 mix of Cherry and Dogwood. A Plant Schedule (Drawing No. 1101.E.02 Rev B) is also submitted, which sets out that all tree species would have a bare-root size of 60-90cm.
- 13 A detailed specification titled ‘Britaniacrest Specification V7’ (received on 27 September 2011) also set out the following measures:
 - tree root protection during excavating and filling;
 - avoidance of trimming and strimming from March to November (nesting season);
 - details of seeding and turfing of grassed areas;
 - soil condition and spacing requirements for tree planting; and
 - maintenance objectives and how these would be undertaken (e.g. weed control and replacing dead/diseased plants).
- 14 However, following initial comments made by the County Landscape Officer, a revised Vegetation Plan (Plan 2 - Vegetation Plan Drawing No. 1101.E.01 Rev B) and additional aftercare details were received on 8 November 2011. A revised Plant Schedule (Drawing No. 1101.E.02 Rev B) was also obtained on 17 November 2011. The revisions made clarify that the woodland mix on both southern and northern bunding would be Common Hawthorn (10%), Hazel (40%), Common Ash (10%), English Oak (10%), Field Maple (10%), Wild Cherry or Gean (10%), Native Rowan or Mountain Ash (10%). The additional

aftercare details received on 8 November 2011 set out what tasks (aftercare operations) would be undertaken and in which months.

- 15 The detailed specification submitted (Britaniacrest Specification V7) is a generic type used for landscaping schemes and Officers therefore required further understanding of how maintenance would be carried out at this site throughout the year, to better avoid future planting failure. The additional aftercare details received on 8 November 2011 set out that:
- Trees would be watered until establishment during prolonged dry periods;
 - Planting failures would be replaced to 98% stocking during the first years after planting;
 - Maintenance would be carried out thereafter for 5 years or until establishment; and
 - Noxious weeds would be controlled within the planted area using suitable methods (as also covered in submitted 'Britaniacrest Specification V7') until planting is established.

CONSULTATIONS AND PUBLICITY

District Council

- 16 Reigate and Banstead Borough Council : No objection.
- 17 (adjoining authority) Mole Valley District Council: No response.

Consultees (Statutory and Non-Statutory)

- 18 County Landscape Officer: In response to the original planting mix and supporting information, the County Landscape Officer stated that on species selection and numbering the proposal was too reliant on Mountain Ash and Wild Cherry, whilst being too limited on Field Maple. As such, he recommended a greater use of Field Maple within the woodland mix, given it is a species that responds well to 'coppice' management. In addition, the lack of a Schedule of Tasks was a concern and a summary sheet should be requested detailing what tasks would be carried out and in which months.

Following the submission of a revised Vegetation Plan (Drawing No. 1101.E.01 Rev B), additional Aftercare Details and a revised Plant Schedule (Drawing No. 1101.E.02 Rev B), the County Landscape Officer now considers the application is acceptable.

- 19 County Ecology and Biodiversity Officer : No objection.
- 20 Natural England: The proposed amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 21 Surrey Wildlife Trust : No response.
- 22 Salfords & Sidlow Parish Council : No response.
- 23 Charlwood Parish Council : No response.
- 24 Horley Town Council : No response.
- 25 Reigate Society : No response.

Summary of publicity undertaken and key issues raised by public

- 26 The application was publicised by the posting of 1no. site notice and 47no. owner/occupiers of neighbouring properties were directly notified by letter. Following this, 1no. letter of representation was received, which raised the following points:

- Since the landscaping was approved in 2006 (which now has to be revised) the Council has allowed the following to occur:
 - The owners to build a house out of character to the rest of the road;
 - Household rubbish to be dumped / recycled;
 - The smell of the area to deteriorate due to household rubbish;
 - Rats / seagulls to continue to thrive;
 - Birds droppings on surrounding area causing harm to wildlife;
 - Chipped wood piles to build up to over 40 metres and 20 metres plus wide;
 - Dry wood to build up, with high risk to fire with no damping system;
 - Recycled dust from concrete, building materials etc to cover cars, resulting in constant covering of grey film from the recycling yard;
 - Council lorries, Britaniacrest lorries and other contractors to steadily increase in numbers, which raises the question of whether the site is a transfer station or a recycling yard;

- *(given the above)* The Council has therefore failed to look after local residents and environmental interests.

PLANNING CONSIDERATIONS

Introduction

- 27 The detailed scheme of landscaping was submitted to comply with the requirements of Condition 17 of planning permission ref: RE04/1403 dated 16 February 2005. The details submitted would supersede the landscaping approved under planning permission ref: RE06/0759 dated 19 June 2006. The current application is needed because the previously approved landscaping scheme has been unsuccessful in parts and Officers therefore sought to rectify this situation. As such, pre-application discussions took place between Officers and the applicant's landscape consultant.
- 28 Condition 17 of planning permission ref: RE04/1403 was imposed to protect the nature conservation interests and local landscape amenity and it is therefore necessary to be satisfied that the proposals are acceptable in respect of these issues. The following policies are relevant in assessing this proposal.

Government Guidance

Planning Policy Statement 9 (PPS9) – Biodiversity and Geological Conservation

South East Plan 2009

Policy CC1 - Sustainable Development

Policy NRM5 - Conservation and Improvement of Biodiversity

Surrey Waste Plan 2008

Policy DC2 – Planning Designations

Policy DC3 - General Considerations

Reigate & Banstead Local Plan First Alteration 2005

(saved) Policy Pc2C – Sites of Nature Conservation Importance (SNCIs)

(saved) Policy Pc2G – Local Nature Conservation Interest

- 29 In May 2010 the Government announced its intention, through the Localism Bill, to abolish Regional Spatial Strategies (RSSs) i.e. the South East Plan 2009, which would mean that the South East Plan 2009 would no longer form part of the Development Plan. The weight to be attached to the South East Plan 2009 is, in the light of the intention to abolish RSSs, a matter for planning authorities to decide. The Localism Bill was introduced to Parliament on 13 December 2010 (including provision for the abolition of RSSs) and received Royal Assent in November 2011 (and thus became the 'Localism Act 2011'), the timetable for the abolition of RSSs is not yet known. Addressing themselves to these matters, Officers do not consider that the issue of weight attributable to South East Plan 2009 is of significance

in respect of this particular application because there do not appear to be any conflicts between the South East Plan and the relevant national planning policy and the Surrey Waste Plan 2008 in particular, and they have therefore proceeded to report simply on the basis of the development plan as it stands i.e. including the South East Plan.

- 30 Planning Policy Statement 9 Biodiversity and Geological Conservation (PPS9) sets out policies that apply to the integration of the protection of biodiversity and geological conservation and planning. Policy CC1 of the South East Plan 2009 aims to ensure the physical and natural environment of the South East is conserved and enhanced. Policy NRM5 of the South East Plan 2009 states that local planning authorities shall avoid a net loss of biodiversity and actively pursue opportunities to achieve a net gain across the region.
- 31 Policy DC2 of the Surrey Waste Plan 2008 states that planning permission for waste related development where this would endanger, or have a significant adverse impact, on the character, quality, interest or setting of any specially protected conservation areas. Policy DC3 of the Surrey Waste Plan 2008 states that planning applications should assess any adverse effects on neighbouring amenity including the visual and landscape impact of the development on the site and surrounding land, and identify any appropriate mitigation.
- 32 (Saved) Policy Pc2C of the Reigate and Banstead Local Plan First Alteration 2005 states that development within or adjoining SNCIs will only be permitted if it does not materially harm the nature conservation value or wildlife interests of the site. The enhancement of sites and features which contribute to the local diversity and nature conservation interest of an area including trees, woodland, hedgerows and other forms of wildlife corridor is also protected by (saved) Policy Pc2G of the Reigate and Banstead Local Plan First Alteration 2005.
- 33 Forming part of planning permission ref: RE04/1403, the applicant proposed significant additional landscaping, predominantly in the form of woodland planting and reinforcement of existing planting. The planting was placed along the access road, within the western end of the site, along the northern boundary of the site, and to the east of the skip storage area. However, some of this planting approved in 2006 has failed in parts of the site and Officers were keen to rectify this situation.
- 34 During monitoring visits, Enforcement Officers noted that some of the planting approved in 2006 had been unsuccessful in establishing itself around the site. For example, this lack of success is very noticeable at the site entrance onto Reigate Road, where the planting on the bunds appears as scrubland rather than woodland (see photo A attached to this report). The current application to revise the detailed scheme of landscaping followed discussions between Officers and the applicant's landscape consultant. As detailed above, the County Landscape Officer's initial concerns regarding an appropriate woodland mix to be used and limited aftercare details have now been overcome and he now supports the application on the basis of the revisions made.
- 35 Officers note that the areas of adjacent SNCI woodland (Cruchfield Copse) are quite detached from the planting areas shown in the submitted landscape scheme. The County Ecology and Biodiversity Officer raises no objection to the proposals given the use of native tree species and that the County Landscape Officer has obtained revisions to the submission. Officers consider that there would be no adverse impact on the neighbouring SNCI, which relevant planning policies seek to protect.
- 36 Officers therefore consider that the revised detailed landscaping scheme is acceptable and that the proposal would not conflict with PPS9, South East Plan policies CC1 and NRM5, Surrey Waste Plan policies DC2 and DC3 or Reigate and Banstead Local Plan First Alteration (saved) policies Pc2C and Pc2G.

Other issues

- 37 With reference 1no. letter of representation and the concerns raised with the operation of the site; none of these issues are deemed relevant to the revised detailed scheme of landscaping being considered. However, Officers have separately discussed the points raised with colleagues in the County Enforcement team and have subsequently written directly to the resident with detailed advice. This detailed written advice was also copied to planning and environmental health officers at Reigate and Banstead Borough Council; the permitting team at the Environment Agency; and Surrey Fire and Rescue. The County Enforcement team carry out monitoring of the site, given numerous planning restrictions (i.e. conditions) from previous planning permissions relating to the current operations. For example, planning permission ref RE06/0159 controls stockpile height (see paragraph 8 above).

HUMAN RIGHTS IMPLICATIONS

- 38 The Human Rights Act Guidance for Interpretation, found at the end of this report, is expressly incorporated into this report and must be read in conjunction with the following paragraph.
- 39 In this case, it is the Officer's view that the details discussed do not interfere with any Convention right.

CONCLUSION

- 40 Officers are satisfied that the revised detailed scheme of landscaping adequately protects nature conservation interests and local landscape amenity and that the revised details submitted pursuant to Condition 17 of planning permission ref: RE04/1403 dated 16 February 2005 be approved. It is a material consideration in this determination that the submitted landscape scheme was revised following advice from the Landscape Officer during the course of the application; who now raises no objection. Additionally, the County Ecology and Biodiversity Officer raises no objection given there would be no adverse impact on the neighbouring SNCI. The application complies with PPS9, South East Plan policies CC1 and NRM5, Surrey Waste Plan policies DC2 and DC3 or Reigate and Banstead Local Plan First Alteration (saved) policies Pc2C and Pc2G.

RECOMMENDATION

- 41 The recommendation is to APPROVE the revised detailed scheme of landscaping contained in application RE11/1694 pursuant to Condition 17 of planning permission ref: RE04/1403 dated 16 February 2005, subject to the following condition:
- 1 The approved scheme shall be implemented within the first planting season following the date of the decision notice and the tree planting and landscaping shall thereafter be maintained for five years. Any trees or shrubs which die during this period shall be replaced in the first available planting season, and the area shown to be landscaped in Drawing No. 1101.E.01 Rev B shall be permanently retained for that purpose only.

Reason: In the interests of visual amenity and to assist in assimilating the site into the local landscape to comply with South East Plan 2009 policies CC1 and NRM5; Surrey Waste Plan 2008 policies DC2 and DC3; and Reigate and Banstead Local Plan First Alteration 2005 (saved) policies Pc2C and Pc2G.

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

Reasons for the approval of details and development plan policies/proposals relevant to the decision.

Officers are satisfied that the revised detailed scheme of landscaping adequately protects nature conservation interests and local landscape amenity and the proposals would enhance the appearance of the development and assist in assimilating it into the local landscape. The application therefore complies with PPS9, South East Plan policies CC1 and NRM5, Surrey Waste Plan policies DC2 and DC3 and Reigate and Banstead Local Plan First Alteration (saved) policies Pc2C and Pc2G.

The submitted details have been considered against the following development plan policies/provisions:

The South East Plan May 2009

Policy CC1 Sustainable Development

Policy NRM5 Conservation and Improvement of Biodiversity

Surrey Waste Plan 2008

Policy DC2 Planning Designations

Policy DC3 General Considerations

Reigate & Banstead Local Plan First Alteration 2005

(saved) Policy Pc2C – Sites of Nature Conservation Importance (SNCIs)

(saved) Policy Pc2G – Local Nature Conservation Interest

HUMAN RIGHTS ACT 1998

GUIDANCE FOR INTERPRETATION

The Human Rights Act 1998 does not incorporate the European Convention on Human Rights into English law. It does, however, impose an obligation on public authorities not to act incompatibly with those Convention rights specified in Schedule 1 of that Act. As such, those persons directly affected by the adverse effects of decisions of public authorities may be able to claim a breach of their human rights. Decision makers are required to weigh the adverse impact of the development against the benefits to the public at large.

The most commonly relied upon articles of the European Convention are Articles 6, 8 and Article 1 of Protocol 1. These are specified in Schedule 1 of the Act.

Article 6 provides the right to a fair and public hearing. Officers must be satisfied that the application has been subject to proper public consultation and that the public have had an opportunity to make representations in the normal way and that any representations received have been properly covered in the report.

Article 8 covers the right to respect for a private and family life. This has been interpreted as the right to live one's personal life without unjustified interference. Officers must judge whether the development proposed would constitute such an interference and thus engage Article 8.

Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest. Possessions will include material possessions, such as property, and also planning permissions and possibly other rights. Officers will wish to consider whether the impact of the proposed development will affect the peaceful enjoyment of such possessions.

These are qualified rights, which means that interference with them may be justified if deemed necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Any interference with a Convention right must be proportionate to the intended objective. This means that such an interference should be carefully designed to meet the objective in question and not be arbitrary, unfair or overly severe.

European case law suggests that interference with the human rights described above will only be considered to engage those Articles and thereby cause a breach of human rights where that interference is significant. Officers will therefore consider the impacts of all applications for planning permission and will express a view as to whether an Article of the Convention may be engaged.

CONTACT

Mark O'Hare

TEL. NO.

020 8541 7534

BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance

Planning Policy Statement 9 – Biodiversity and Geological Conservation

The Development Plan

The South East Plan 2009

Surrey Waste Plan 2008

Reigate & Banstead Local Plan First Alteration 2005 (saved policies)

Other documents

Localism Bill 2010

Localism Act 2011
