

Consideration of whether new factors have emerged between the Planning and Regulatory Committee resolution on 7 January 2015 and the issuing of the decision notice once the decision notice has been issued on the Manor Farm planning application ref SP2012/01123 which is subject to the prior completion of a s106 legal agreement.

**PLANNING APPLICATION REF: SP13/01003**

**SITE:** Land at Queen Mary Quarry, Ashford Road, Laleham, Surrey TW8 1QF

**PROPOSAL:** The siting and use of a conveyor to transport mineral extracted from Manor Farm to the mineral processing plant at Queen Mary Quarry as an alternative to the conveyor proposed in planning application ref: SP12/01132.

The Planning and Regulatory Committee considered the above planning application made by Brett Aggregates Ltd at the 7 January 2015 meeting and resolved subject to planning permission being granted for application SP2012/01132 to grant planning permission for SP13/01003 subject to conditions and informatives.

The section 106 agreement (s106 legal agreement) relating to the Manor Farm application has been prepared and will soon be available for completion in which case the planning permission decision notices on both applications can be issued in line with the committee resolution.

As a result the time taken to complete the s106 Agreement, a period of nearly six months will have lapsed between the committee resolutions and the issue of the decision notices. As such consideration is given below as to whether any new factors have emerged in the intervening period.

**1 CASE LAW and Environmental Impact Assessment (EIA)**

	<b>Consulted Legal Services/EIA Officer</b>	<b>Changes</b>	<b>No changes</b>	<b>Details/Comments</b>
Have any relevant new legal issues arisen since the resolution by Committee?	✓	✓		After the meeting planning officers become aware of case law (in <i>Kemnal Manor Memorial Gardens Ltd. v The First Secretary of State &amp; Anor [2005] EWCA Civ 835 (14 June 2005)</i> and <i>Timmins &amp; Anor, R (On the Application Of) v Gelding Borough Council [2015] EWCA Civ 10 (22 January 2015)</i> ) to do with Green Belt policy and the approach to applications for development involving development which is partly inappropriate development and partly

	Consulted Legal Services/EIA Officer	Changes	No changes	Details/Comments
				<p>appropriate in the Green Belt.</p> <p>Having reviewed the approach taken in respect of the Manor Farm SP2012/01132 planning application as set out in the officer report to committee and taken legal advice, planning officers in consultation with Legal Services decided that this Green Belt case law was a new matter which is material to the consideration of that planning application, and it should therefore be referred back to the Planning and Regulatory Committee.</p> <p>As this application is interdependent with the Manor Farm planning application, it would be appropriate for this application to be referred back as well.</p>
Have any relevant new EIA issues arisen since the resolution by Committee?	✓		✓	

**2 DEVELOPMENT PLAN DOCUMENTS AND BACKGROUND PAPERS REFERRED TO WITHIN THE OFFICER REPORT (✓)**

Background Papers	Unchanged	Revised/ Changed	Comments
<b>Policy Guidance</b>			
National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG)	✓	✓	There have been a number of changes to the planning practice web based resource since 7 January 2015. The changes relate to various categories of guidance and include amendments to previous guidance and addition of new guidance. These changes relate to the following matters: pre application discussions, planning performance agreements, neighbourhood planning,

Background Papers	Unchanged	Revised/ Changed	Comments
			<p>strategic environmental assessment and sustainability appraisal, planning obligations (relating to infrastructure obligations and housing and economic development needs assessments), when is planning permission required and changes to a) permitted development rights for the change of use of agricultural buildings, b) renting out private residential parking spaces, local plans, housing and economic development needs assessments, housing and economic land availability assessment, transport evidence bases in plan making and decision taking (relating to the - the development of airport and airfield facilities and their role in serving business, leisure, training and emergency service needs), ensuring effective enforcement (stop notices), Community Infrastructure Levy (CIL), considering water supply, wastewater and water quality when plan making, Environmental Impact Assessment, viability, renewable and low carbon energy, climate change (setting local requirements for sustainability of a building), housing (optional technical standards) flood risk and coastal change (changes to statutory consultee requirements and sustainable drainage systems and surface water runoff (to apply to planning applications made on or after 15 April 2015 only), deemed discharge and written justification of conditions requirements, duty to cooperate,</p> <p>None of the changes are relevant to the consideration of this application.</p>
<b><i>The Development Plan</i></b>			
Surrey Minerals Plan 2011 (Core Strategy and Primary Aggregates Development Plan Documents)	✓		
Spelthorne Borough Local Plan 2001 Saved	✓		The plan together with the Spelthorne Borough Core Strategy and

Background Papers	Unchanged	Revised/ Changed	Comments
Policies And Proposals as at 28 September 2007			<p>Policies Development Plan Document February 2009 and Spelthorne Borough Core Strategy and Policies Development Plan Document February 2009 are to be replaced by a new Local Plan as the existing documents are not considered entirely up to date and consistent with the NPPF.</p> <p>The preparation of the new plan has only just commenced and is programmed to take place between 2015 and 2019. The new plan is at a very early stage of preparation and is not material to these applications.</p>
Spelthorne Borough Core Strategy and Policies Development Plan Document February 2009	✓		See comment on Spelthorne Borough Local Plan 2001 above.
Spelthorne Borough Council Flooding SPD, adopted 19 July 2012	✓		See comment on Spelthorne Borough Local Plan 2001 above.
<b>Other Documents</b>			
Surrey County Council Guidelines for Noise Control Minerals and Waste Disposal 1994 (Surrey Noise Guidelines)	✓		
The deposited application documents and plans, Environmental Statement 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		✓	<p>Correction to error on previous version of drawing (Sketch drawing ref SK12377/SK1 Floodplain compensation and Causeway Drainage Proposal dated 04/11/13 as revised on 22 July 2015) which showed the application site boundary passing through land at 151 Ashford Road instead of along the property boundary with the Manor Farm application site.</p> <p>The drawing now accords with the other submitted drawings and red line application boundary as shown on Drawing No. ST13443 – PA1-Site Location, dated 09/04/13.</p>

Background Papers	Unchanged	Revised/ Changed	Comments
			<p>The change corrects a drawing office drafting issue and does not involve an amendment to the planning application site boundary or application proposal.</p> <p>The revised drawing has been sent to Spelthorne Borough Council for entry on the planning register.</p> <p>The correction to this drawing is not considered to be material to the decision taken by Members.</p>

### 3 CONSULTEES

All the statutory and non statutory consultees consulted and parish/town councils and amenity groups notified on both planning applications (as listed in the report to the 7 January 2015 committee (paragraphs 15 to 44) were asked if they were aware of any changes or new factors.

(i) Of those who responded the CLAG2 (Campaign Laleham Against Gravel) action group and the Spelthorne Natural History Society considered there were changes and new factors as set out in the table below. These have been reviewed and none of the matters referred to relate to this planning application.

Organisation	Change/new factor(s)
CLAG2	<p>1. Since the meeting CLAG2 have attended RESTORE meetings which are sponsored by Surrey County Council. From these meetings it became apparent information presented to the committee by the applicant about:</p> <p>a) use of conveyor belt to infill the site. It was stated at the meeting and in the officer report that the use of conveyors to transport waste from the Crossrail project to Wallasea Island had failed/was not effective. Yet this is not the case. Also at the meeting the committee were told local people would not want more lorries which was totally misleading as waste could be delivered by road to Queen Mary Quarry (QMQ) off the A308 so lorries would not have to travel via Laleham village, Worple Road or Ashford Road;</p>

Organisation	Change/new factor(s)
	<p>b) the availability of inert material – on several occasions it has been said there was insufficient material available to restore the site yet at the RESTORE meeting it was stated there is an abundance of material available given the proximity to London and construction projects there;</p> <p>c) restoration to water bodies – at every RESTORE meeting the consensus was there should be no more wetland restoration in NW Surrey especially in view of the flooding last year;</p> <p>d) the point made by Councillor Beardsmore about paragraph 143 of the national plan (National Planning Policy Framework(NPPF)) is to return agricultural land to its present state; and</p> <p>e) the applicant has not bothered to look at infilling the site as they don't want to, yet there are two alternatives to fill the site involving waste delivered to QMQ by road and then either by conveyor to Manor Farm or by road crossing over the Ashford Road via a controlled crossing.</p> <p>2. Mr Bishop one of the speakers at the meeting commented that the depth of proposed lakes would be 40 feet (12 metres) as stated in the application. When Mike Courts responded he corrected this to 10 feet which we feel was misleading the committee and officers.</p> <p>3. Aircraft – recently more aircraft have been flying lower over Laleham, plus with the ending of the Cranford Agreement and therefore, potential change of runway usage at Heathrow Airport on a more regular basis surely the consultation on bird strike should be reviewed especially as the RSPB state that birds move from one water body to another.</p>
<p>Spelthorne Natural History Society</p>	<p>The Society welcomes the opportunity to raise matters which are still of concern as well as factors which have arisen since the Planning and Regulatory Committee Meeting of the 7 January 2015.</p> <p>1. They find it difficult to accept that the development proposed at the QMQ Site is temporary when it is likely to occupy the site for more than 25 years, and that is not allowing for any extensions to the permission. The openness of the Green Belt will be compromised and the result will be an industrialised landscape enclosed with security fencing.</p> <p>2. Ash Link Local Nature Reserve (LNR) (report page 25 paragraph 8). The site is also close to the Ash link LNR, the only LNR in Spelthorne and is situated either side of the M3. The reserve is owned by Spelthorne Borough Council (SBC) and managed by Spelthorne Natural History Society. The River Ash forms the boundary of the reserve and any pollution arising</p>

Organisation	Change/new factor(s)
	<p>from the QMQ site is likely to have an adverse impact on the flora and fauna of the reserve. The existence of the reserve has not been acknowledged by either Bretts or its consultants and the Society wish to request that special measures are taken to safeguard the River Ash as it flows through the QMQ site.</p> <p>The Society is currently participating with the Environment Agency and the London Zoological Society in monitoring the number of eels/elvers in the River Ash. Any pollution arising from the cement located on the site would have disastrous effects on the ecology of the river.</p> <p>3. The Staines Moor SSSI includes Shortwood Common as well as Staines Moor. A pond on the former is the habitat of a nationally rare plant. The hydrology of Shortwood Common, especially the pond is influenced by what occurs downstream of the River Ash.</p> <p>4. Officer report page 29 paragraph 30 - The silt and clay particles arising from the washing of the excavated material is to be deposited in settlement lagoons/lake. This could have a 'blinding' effect on the bottom and sides of the lagoons/lake with an adverse effect on the hydrology and hydrogeology of the water environment.</p> <p>5. Officer report page 31 paragraph 45 - SBC raised strong objection to the proposal. The Society endorses the SBC request for the feasibility of backfilling the Manor Farm site using a conveyor system to be re-examined.</p> <p>6. Officer report page 54 paragraph 118 - Account should now be taken of the latest Aggregates Monitoring Survey and Update and SCC's Annual Monitoring Report.</p> <p>7. Page 57 <u>Concrete Batching Plant and Aggregate Bagging Plant</u> Fig 10 and Fig 11 pages 145/146 show the location for these. It appears that these would be sited on areas of hard standing within the QMQ site. The Society is concerned that the large areas of surface water shown could be a source of pollution given the materials to be handled and the parking of mixer trucks.</p> <p>8. Page 100 paragraph 387. The Society does not agree with the statement that the county council has to determine the current application on the merits of the proposal as submitted. There is nothing hypothetical about using a conveyor to backfill the site as in our opinion it is technically feasible to do so. The report states that such a conveyor system is not widely used, which implies that it is used. SBC requested that the feasibility of using a conveyor should be re-examined.</p>

Organisation	Change/new factor(s)
	<p>The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 Schedule 4 Information for inclusion in environmental statements Part 1 s2 An outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice made, taking into account the environmental effects. Has the applicant done this?</p> <p>9. Page 103 paragraph 407, National Grid have confirmed that they have considered all aspects of the development mentioning the location and dimensions of the proposed aggregate bagging plant. Where are the location and dimensions to be found in this report? There is no reference to the concrete batching plant or the stockpile.</p> <p>10. Page 108 <u>Concrete Batching Plant and Aggregate Bagging Plant.</u> The Society does not accept that the applicant and officers have demonstrated that very special circumstances exist to outweigh the harm to the Green Belt.</p> <p>No account has been taken of the amount of cement that will have to be transported by HGVs to the QMQ site.</p> <p>The applicant already has these facilities at the Hithermoor Quarry which adequately serve local needs. Once the supply of indigenous mineral at Hithermoor has been exhausted there is no doubt that Bretts will apply to excavate the sand and gravel from King George VI Reservoir. The Hithermoor Quarry is located in the Green Belt and no doubt warranted being treated as a very special circumstance. The QMQ site is located only 4.5 miles from the Hithermoor Quarry.</p> <p>Given the inadequacy of the discussion at the meeting on 7 January of the existence of very special circumstances (the minutes state 'members agreed that the main points had been raised during the discussion of Item 7', we consider that there is an excellent case for a legal challenge to be made against the Committee's decision to grant planning permission for the concrete batching plant and the aggregate bagging plant.</p> <p>11. Page 127 paragraph 14. When Bretts applied for a renewal of the water abstraction licence previously held by Reservoir Aggregates they indicated that although the volume of water to be extracted was greater there would be no overall losses as the water would be recycled. The Society pointed out to the Environment Agency that this was a physical impossibility if account was taken of evaporation, dust suppression and mineral and vehicle washing. The Environment Agency said they would monitor the situation.</p>



The other statutory and non statutory consultees consulted and parish/town councils and amenity groups who responded, listed below, were not aware of any changes or new factors.

- Spelthorne Borough Council – Planning
- Heathrow Airport Safeguarding
- Natural England
- Highway Authority (Transportation Development Planning Group)
- County Noise Consultant (CNC)
- County Landscape Consultant
- County Geotechnical Consultant
- County Air Quality Consultant
- County Heritage Conservation Team – Archaeological Officer
- Environment Agency
- Health and Safety Executive
- Rights of Way
- Thames Water
- Affinity Water
- Royal Society for the Protection of Birds (RSPB)
- Surbiton & District Bird Watching Society

ii) No response has been received from the following statutory and non statutory consultees consulted and parish/town councils and amenity groups:

- County Ecologist and Biodiversity Manager
- Fisher German LLP (Esso Pipeline)
- National Grid (National Transmission System)
- County Environmental Enhancement Officer
- Surrey Wildlife Trust
- Open Spaces Society
- Ramblers' Association (Staines Group)
- Charlton Village Residents' Association

- Laleham Residents' Association
- Manor Farm Eastern Boundary Residents' Association
- Manor Farm Residents' Association
- Shepperton Residents' Association

#### 4 PUBLICITY

Since the application was considered at the January meeting three representations have been received, none from people who have written in previously; in total 47 written representations have now been received on this application. The representations object to both this and the SP2012/01132 Manor Farm planning application. The grounds for objection cited relevant to this application are flood risk and restoration. None are new issues or facts.

#### KEY CONSIDERATIONS IDENTIFIED WITHIN THE REPORT AND HIGHLIGHTED AT THE COMMITTEE MEETING

Issue	Unchanged	Revised/ Changed	Comments
Flood risk	✓		
Hydrology and hydrogeology	✓		
Noise	✓		
Air Quality and Dust	✓		
Landscape and visual impact	✓		
Biodiversity	✓		
Green Belt		✓	See case law and EIA section above.

#### 5 OTHER MATTERS

- Planning applications/decisions relating to Queen Mary Quarry (QMQ) and Manor Farm - None.***
- The Planning Portal, Gov.UK websites***

These have been checked for any new legislation, policy documents, circulars and official letters, speeches, statements and articles, good practice and guidance and consultation documents which may have been issued since 7 January 2015.

Since 7 January 2015 there have been a number of changes to procedures and the planning practice guidance published and introduced. These have been reviewed and nothing is considered to introduce any changes that affect the procedural handling of these planning applications, or change in circumstances that would be material to the decisions taken by Members.

To my knowledge nothing that might rationally be regarded as a material consideration has been published since 7 January 2015.

**c) *Spelthorne Local Development Framework***

Nothing new has been adopted or published for consultation.

**6 CONCLUSION**

The case law and approach to the consideration of Green Belt is considered a new factor that could reasonably be described as a material consideration on the SP2012/01132 Manor Farm planning application such that the application should be referred back to the Planning and Regulatory Committee. As this application is interdependent with that application it would be appropriate for this application to be referred back as well.

**Susan Waters**  
**Principal Planning Officer**

**Date: August 2015**

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