

Planning & Regulatory Committee 23 March 2022

## UPDATE SHEET

**MINERALS/WASTE WA/2017/1466 MO/2017/1432**

**DISTRICT(S)** WAVERLEY BOROUGH COUNCIL

MOLE VALLEY DISTRICT COUNCIL

**Land at Ewhurst Brickworks, Horsham Road, Walliswood, Surrey RH5 5QH**

**Extraction of clay from an area of 43.2 hectares (ha) with restoration to agricultural grassland, lakes, woodland and grassland; together with the construction of a tile factory with a chimney, and the permanent diversion of footpath 89; and on a site of 113ha.**

### Heritage matters

1. The following paragraph should have been inserted before paragraph 375 of the Officer report. Regard should be given to this.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a “General duty as respects listed buildings in exercise of planning functions.” Subsection (1) provides: “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” Section 66 of the Act gives a ruling on how planning applications are to be considered in cases affecting listed buildings, and also includes an obligation to protect the setting of listed buildings. This legislation has been assessed by the Courts on various occasions, invariably finding that, if there would be harm to a listed building or its setting, that harm must be given considerable importance and weight and not treated merely as a ‘material consideration’ to which decision-makers can attach such weight as they think fit.

Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area in exercising planning functions.

Officers are of the opinion that the proposal, when taking account all the factors within the planning application and Environmental Statement, has been assessed in accordance with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990.

## CONSULTATIONS AND PUBLICITY

### *Consultees (Statutory and Non-Statutory)*

2. County Air Quality Consultant – the Officer report should have included comments from 2020 that the County Air Quality Consultant commented that a Dust Management Plan maybe imposed as a condition which would formalise the routine day to day mitigation

measures, set triggers that would be adopted in the event of a trigger being exceeded and formalise the complaints process and should include a clause for regular review.

3. County Noise Consultant – the Officer report should have included comments from 2020 that the County Noise Consultant comments that the noise effects of the increase in clay extraction are below the limit for the particular activity and are hence acceptable and recommends a condition. With regards to the scrubber unit that the noise effects of the use of an additional scrubber unit associated with the second brick kiln exceed the national limit for the night-time noise by 1 dB(A). This is a nominal exceedance over the limit and is considered acceptable in this instance given that there is a low difference between the background noise level and the operational noise level from the site. Recommend a condition for noise monitoring.
4. The County Historic Buildings Officer has provided further comments with regards to the impact of HGVs travelling through Okewood Hill Conservation Area. He comments Okewood Hill Conservation Area is a small hamlet near Ockley which consists of a number of historic 16<sup>th</sup> and 17<sup>th</sup> century dwellings. The boundaries of the Conservation Area consist principally of farmsteads and woodland which have limited the extent of development. The Conservation Area includes four listed buildings which are Oakwood Manor, The Punch Bowl Inn, The Stores and Woodham Farm House all of which are Grade II listed. All of these are historic timber framed buildings which make a positive contribution to the character and appearance of the area. They are significant in their own right owing to their age and evidence of historic construction techniques through the 16<sup>th</sup> and 17<sup>th</sup> centuries. The principal road consists of Okewood Hill which runs the centre of the hamlet. Compared to other Conservation Areas in the county, this is a relatively wide road capable of taking HGVs without resulting in serious traffic issues. There are no issues with parking blocking the road in any points through Okewood Hill nor any particularly tight corners which make navigation difficult. Most of the dwellings are also setback from the road. As a result of these factors he does not consider there will be any harmful impact on views, smells or vibrations from the increase in HGVs either within the Conservation Area or in the setting of the aforementioned listed buildings.
5. The County Historic Buildings Officer comments the matter of noise from the increased HGVs should be considered but notes that there is a steady flow of vehicles through the village as well as aeroplanes taking off and landing, all of which generate noise. The County Historic Building Officer comments that provided the HGV figures are correct of an increase on average from 28 to 54<sup>1</sup> HGVs (through Okewood Hill) this would be imperceptible when considered against the existing traffic. He is of the opinion there would be no harm to the character and appearance of the Conservation Area or the setting of the listed buildings in line with paragraphs 195 and 199 of the NPPF and paragraphs 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. Officers consider that when taking the existing noise environment of existing HGV traffic from the site alongside other traffic on the network, planes and agricultural activity whilst there is an element of tranquillity in the conservation area, the increase in HGV movements associated with this proposal does not cause harm to the Conservation Area and be a reason to create great weight in the balance to refuse the application.
7. The County Enhancement Officer has reviewed the Aftercare Condition and recommends it, and the working programme condition, are amended to include some elements within the working programme rather than the aftercare condition. They read as follow now:

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<sup>1</sup> This is based on Table 7.2 of the Transport Statement March 2020

**Condition 18 Phased Working and Restoration:**

Prior to the commencement of clay winning and working and the restoration of any individual Phase (1B, 2, 3, 4, and 5) as shown on Drawing EWH008 rev C Extraction Phase Areas Plan dated May 2019, a scheme of working and restoration of that individual phase shall be submitted to and approved in writing by the County Planning Authority for that individual phase. The scheme should include:

- a. volumes of material to be extracted (clay and overburden);
- b. volumes of topsoil and subsoil to be stripped and moved from that Phase
- c. method of working including angle of slope;
- d. cross section profile drawings;
- e. methods of soil handling (movement, storage and replacement (including topsoil and subsoil depths and remedial treatments e.g. ripping and drainage);
- f. locations and heights of topsoil, subsoil, mineral waste and excavated clay stockpiles associated with working and restoring of each individual phase. Surplus soil should not be wasted by placing too deep or discarding at the base of the lakes;
- g. details of the timing and location of all overburden and subsoil ripping to take place within each phase;
- h. intended location and afteruse of the topsoil and subsoil stripped within that Phase;
- i. identification of person responsible for supervising soil management;
- j. details of any remedial drainage within Phases 3 and 4 if required;
- k. details of how surface water and ingressed groundwater is collected and managed including plans;
- l. planting detail including sowing rates/spacing, species, percentage composition of species mix, means of protection, biosecurity including the sourcing of new trees and shrub stock;
- m. details of any acoustic screening or of any screen bunding to be constructed or erected including cross sections, height, location; repositioning of the screening bunds during any individual phase, the shape, and the grassing up of the screening bunds including seed mix and application rates, weed control and any other maintenance; and information on their duration;
- n. a timeframe for implementation and completion of each individual phase.

The scheme shall be carried out strictly in accordance with the scheme as approved

**Condition 83 Aftercare:**

Within 12 months of the date of this permission a detailed Aftercare Scheme shall be submitted to and approved in writing by the County Planning Authority for Phase 1. The detailed Aftercare Schemes shall include:

- a. the Aims and Objectives for the phase and the identified land use within it for the Aftercare period, together with a plan showing the management compartments
- b. details of the cultivation, protection and management of tree, shrub & aquatic planting and seeding, including provision for any replacement planting or seeding in the event of failures.
- c. Programme of other aftercare works in addition to planting & seeding management.
- d. details of drainage.
- e. details for the provision of an annual aftercare visit between the applicant and the County Planning Authority; and
- f. details of an annual report on the work carried out in the previous 12 months and proposed works for the forthcoming 12 months to be provided no later than two months prior to the annual Aftercare meeting.

The management and maintenance of the restoration and aftercare to nature conservation for the site shall be for a period of 20 years post the five year aftercare period.

### **Additional new condition**

Prior to the commencement of any individual Phase (2, 3, 4 and 5) as shown on plan EWH008 Rev C Extraction Phase Plan dated May 2019, a detailed Aftercare Scheme shall be submitted to and approved in writing by the County Planning Authority. The detailed Aftercare Schemes shall include:

- a. the Aims and Objectives for the phase and the identified land use within it for the Aftercare period, together with a plan showing the management compartments
- b. details of the cultivation, protection and management of tree, shrub & aquatic planting and seeding, including provision for any replacement planting or seeding in the event of failures.
- c. Programme of other aftercare works in addition to planting & seeding management.
- d. details of drainage.
- e. details for the provision of an annual aftercare visit between the applicant and the County Planning Authority; and
- f. details of an annual report on the work carried out in the previous 12 months and proposed works for the forthcoming 12 months to be provided no later than two months prior to the annual Aftercare meeting.

The detailed Aftercare Scheme submitted for Phase 5 shall include all areas of the application site that lie outside of the phased extraction areas including, but not limited to, the brickmaking factory and all its ancillary structures. The management and maintenance of the restoration and aftercare to nature conservation for the site shall be for a period of 20 years post the five year aftercare period.

### **RECOMMENDATION**

8. **Condition 24 is missing from the Officer report** and should have been included. Condition 24 says:

#### *Construction Environmental Management Plan*

Prior to the demolition of the existing agricultural buildings and the construction of the tile factory as shown on drawing EWH025 Rev C Proposed Advance Woodland Planting Plan dated October 2020, a Construction and Environmental Management Plan (CEMP) that covers the construction of the tile factory and stocking yard and the demolition of the existing agricultural buildings shall be submitted to and approved in writing by the County Planning Authority. The CEMP shall include details of the following relevant measures:

- a) An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- b) A description of management responsibilities including complaint recording and management;
- c) A description of the construction programme which identifies activities likely to cause high levels of noise or dust;
- d) Site working hours and contact details for residents to contact;
- e) Detailed Site logistics arrangements;
- f) Details regarding parking, deliveries, and storage;
- g) Details regarding dust and noise mitigation measures to be deployed including identification of sensitive receptors, together with arrangements for ongoing monitoring of construction noise impacts against suitable noise targets in accordance with BS5228 Code of

Practice for Noise and Vibration control and provision of monitoring results to the County Planning Authority;

- h) Details of hours of work, site delivery hours and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
- i) Communication procedures with the local community regarding key construction issues – newsletters, fliers etc.
- j) Details of how areas of soil to be protected from construction activities (e.g. retained trees, protected habitats, invasive weeds) shall be identified and clearly marked out with a barrier.

The construction of the tile factory and stocking yard shall thereafter be carried out in accordance with the details and measures approved in the CEMP.

**9. Condition 36 has been amended to:**

Within six months of the date of this decision a detailed scheme of investigation, monitoring and assessment shall be submitted to the County Planning Authority in writing for approval. The scheme shall include the following:

- a. A programme for implementation of the scheme components;
- b. A plan for the monitoring of groundwater levels
- c. A plan for collection of rainfall data and assessment of future on site rainfall;
- d. Proposals for measurement of ground permeability;
- e. Proposals for recording of pumped discharge rates and volumes;
- f. A method statement for groundwater and surface water quality assessment, including chemistry and prediction of any quality impacts on local surface waters from the final restoration scheme and required mitigation measures;
- g. A method statement for water balance study and assessment of the likely final restored lake water levels for each phase, their seasonal variations and for the design of any outfall or control structures including allowance for the predicted effects of climate change;
- h. Proposals for ongoing monitoring of water levels and the restoration works after approval, during and after implementation.

The scheme shall be implemented and maintained strictly in accordance with the approved details and a groundwater and surface water assessment report for each Phase shall be submitted in writing to the County Planning Authority no later than 18 months before the cessation of permanent pumping of that Phase. The approved data and assessment results shall be used to update the EIA of the scheme, inform the design of any mitigation measures and input into the Surface Water Drainage Scheme described in Condition 37. Any long-term monitoring required under the scheme shall be maintained strictly in accordance with the approved details.

**10. Conditions 75 and 76** should be amended so they both read:

Condition 75: Prior to the creation of the permissive bridleway between Bridleway 443 and Footpath 89 (Abinger) a Permissive Path Agreement shall be entered into with the Countryside Access Team for its provision on a route to be determined and agreed with the Countryside Access Team. The works shall be implemented strictly in accordance with the details set out in the Permissive Path Agreement within 6 months of agreement with the Countryside Access Team.

Condition 76: Prior to the creation of the permissive bridleway between Bridleway 443 and Footpath 89 (Abinger) a Permissive Path Agreement shall be entered into with the Countryside Access Team for works to be carried out on Footpath 89 (Abinger). The works shall be implemented strictly in accordance with the details set out in the Permissive Path Agreement within 6 months of agreement with the Countryside Access Team.

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