

MC/17/1053

Date Received: 21 March, 2017

Location: Salt Lane, Cliffe, Rochester, Kent ME3 7SU

Proposal: Restoration of Chalk Lake to pre-extraction ground levels using inert materials

Applicant: Brett Aggregates Limited

Agent: Mrs Webberley David Jarvis Associates Limited 1 Tennyson Street Swindon SN1 5DT

Ward Strood Rural

Case Officer Karen Cronin

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5 July 2017.

Recommendation - Approval subject to;

Approval subject to:

A) A unilateral undertaking to secure the ecological and landscape enhancement of Alpha Lake and Chalk Lake as approved under planning permission ref: MC/14/1630 to include re-profiling and creation of new island features; and

B) The following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Numbers 2489-4-1-DR-0004-SS-SS REV P1, 2489/UU/1, DR-0001, DR-0002, DR-0003, DR0005, LV-0001, LV-0002, LV-0003, LV-0004, LV-0005, LV-0006, LV-0007

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall take place until a plan detailing the timing of habitat manipulation/removal and creation is sufficiently detailed to provide confidence that sufficient enhancement, mitigation and/or protection of protected species is possible. Any change to operational, including management, responsibilities shall be submitted to and approved in writing by the local planning authority. The plan shall be carried out in accordance with a timetable for implementation as approved.

The scheme shall include the following elements:

- Details of how and when fish and eels will be rescued and moved from the site. Note a permit for this activity will be required from the Environment Agency.
- Details of mitigation habitat for water voles, when and where this will be created.
- Any other mitigation for protected species required for this site.

Reason: To protect the populations of protected species, and fish currently found at the development site.

- 4 No development shall take place until a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for the whole application site, have been submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- Details of chalk grassland habitat to be created including seed mix.
- Details of any trees or scrub habitats included to provide additional edge/breeding bird habitats.
- Details of long term management plan to secure ecologically positive habitat on the site.

Reason: To secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy, and create the habitat described in the planning application.

- 5 No development shall take place (including any ground works, site or vegetation clearance) until a method statement for the protection of biodiversity has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works:
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives including updated surveys where necessary;
- c) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the

proposed phasing of construction;

e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;

f) Use of protective fences, exclusion barriers and warning signs;

g) Initial after care and long-term maintenance (where relevant);

h) Disposal of any wastes for implementing work (where relevant).

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

- 6 No development shall take place until an Ecological Design Strategy (EDS) addressing ecological restoration and enhancement of the site has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

a) Purpose and conservation objectives for the proposed works including target species;

b) Review of site potential and constraints;

c) Detailed design(s) and/or working method(s) to achieve stated objectives;

d) Extent and location/area of proposed works on appropriate scale maps and plans;

e) Type and source of materials to be used where appropriate, e.g. native species of local provenance;

f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;

g) Persons responsible for implementing the works;

h) Details of initial after care and long term maintenance;

i) Details for monitoring and remedial measures;

j) Details for disposal of any wastes arising from works (where relevant).

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implantation can demonstrate this.

- 7 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority prior to the completion of the development. The content of the LEMP shall include the following.

a) Description and evaluation of features to be managed;

b) Ecological trends and constraints on site that might influence management;

c) Aims and objectives of management;

d) Appropriate management options for achieving aims and objectives;

e) Prescriptions for management actions, together with a plan of management

compartments;

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To ensure opportunities for the enhancement of the nature conservation value of the site is in line with national planning policy.

- 8 Details of the monitoring and management of groundwater (including displaced) groundwater flows shall be submitted to and agreed with the Lead Local Flood Authority prior to the commencement of infilling of the lake.

Reason: To manage the risks of associated with displaced groundwater due to the changes in the hydraulic connectivity and behaviour of groundwater during and post construction.

- 9 No development shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

Those details shall include (if applicable):

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To manage surface water during and post construction and for the lifetime of the development.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

Restoration of Chalk Lake to pre-extraction ground levels using inert materials imported by boat, barge or rail. The imported material would comprise chalk materials derived from major tunnelling projects in the London area. There is no proposed access to the public road as the project does not require access to the highway.

Chalk Lake is approximately 100m x 350m and is up to 7.5m deep. The proposal would restore the lake to pre-extraction ground levels for use as pasture/chalk grassland. It is proposed that 800,000 tonnes of inert material would be imported per year at a rate of 2500 tonnes per day. The works should be complete within 2 years.

The application is accompanied by a Supporting Statement, Ecological Impact Assessment, Environmental Statement and Water Environment Assessment to provide detailed assessment of a range of environmental impacts that could result from the proposal.

This application follows the refusal of planning application ref: MC/16/4722 on 21 February 2017. The revised application includes a Unilateral Undertaking linking the current application to the previous application MC/14/1630 and ensuring that work would not begin on the current application without the previous application being commenced. The applicant has also submitted details to discharge conditions relating to MC/14/1630 in order to begin work. Planning permission MC/14/1630 is for ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features.

Relevant Planning History

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|------------|---|
| MC/17/1804 | Details pursuant to condition 3 of planning application MC/14/1630 - Proposed ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features.
Decision Approval
Decided 05/06/17 |
| MC/17/1687 | Details pursuant to condition 4 of planning application MC/14/1630 - Proposed ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features.
Decision Decided |
| MC/17/1667 | Details pursuant to condition 7 & 8 of planning application MC/14/1630 - Proposed ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new |

island features.

Decision Decided

MC/16/4722

Restoration of Chalk Lake to pre-extraction ground levels using inert materials

Decision Refusal

Decided 21/02/2017

MC/16/3031

Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion for the proposed restoration of Chalk Lake to pre-extraction ground levels using inert materials imported by barge, boat or rail together with silt from sand and gravel washing

Decision EIA Required

Decided 21/09/2016

MC/14/3190

Lawful Development Certificate (Existing) for the discharge of excavated silt (from Timber Lake) into Chalk Lake, together with the deposition of rejects concrete paving (to stabilise the silt).

Decision Approval

Decided 23/12/2014

MC/14/1630

Proposed ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features.

Decision Approval

Decided 05/03/2015

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

The Environment Agency, Natural England, Kent Wildlife Trust, RSPB, Dickens Country Protection Society, Cliffe and Cliffe Woods Parish Council, Gravesham Borough Council, Southern Water, SGN, ADF, KCC Archaeology, KCC Waste and Environment, Arboriculture, Planning Policy, Environmental Protection, Flood and Drainage have also been consulted.

Cliffe and Cliffe Woods Parish Council have raised an objection to the proposal and as such it will be determined by Planning Committee. Their comments are as follows:

The Parish Council objects for the same reasons as the previous application and see no reason to reverse the decision of refusal. The site has permission for a partial infill and a further loss of open water will result in a reduction of wildlife habitat. There are a number of existing permissions and together these could reduce available habitat. Maximum environmental benefit can be gained by leaving a shallow lake. The site is located within the Cliffe Pools and Pits landscape character area and the ALLI

Industrial activities remain but the role of the ALLI is to inhibit further destruction of the landscape, protect the natural recovery that has occurred and encourage further positive efforts to restore the landscape.

The **Environment Agency** has made the following comments:

Raise no objection subject to conditions relating to protected species and landscape management plan.

Natural England has made the following comments:

Further to our response on the previous application MC/16/4722 we were provided with further clarity on the points raised in our letter. Natural England is satisfied that the works for Chalk Lake are unlikely to result on disturbance to birds associated with designated sites. Similarly the measures in relation to air quality and dust deposition along with managing the risk of waterborne contamination of lakes within the designated site also appear appropriate. It may be appropriate to consider a greater degree of monitoring to assess any impact to birds from works during the winter period.

The **RSPB** have made the following comments:

The RSPB concurs with Natural England's advice.

Dickens Country Protection Society has made the following comments:

A minimum of 2 metres of water should remain to retain the wildlife.

Southern Gas Network show no pipelines in the area of the development

Gravesham Borough Council has raised no objection.

Southern Water has raised no objection.

KCC Ecology has made the following comments:

No objection. We are satisfied with the mitigation outlined in regards to protected species. Recommends conditions relating to a biodiversity method statement, ecological design strategy and landscape and ecological management plan.

Flood and Drainage have made the following comments:

No objections subject to imposition of conditions relating to ground water and surface water.

No letters have been received from members of the public.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local

Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

Planning Appraisal

Background

This application follows the refusal of MC/16/4722. The revised application includes a Unilateral Undertaking linking the current application to a previous application MC/14/1630 for ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features. The previous application was refused for the following reason:

The proposal would lead to the permanent loss of this aquatic habitat and aquatic flora and fauna, changes to terrestrial habitat, displacement of fauna, including avifauna and water voles, effects on higher fauna from water quality changes and disturbance from dust and damage to habitat around the outer margins of the application site. The permanent changes to habitat and permanent changes in use of the site by species following complete restoration are contrary to Policy BNE34 and BNE37 of the Medway Local Plan 2003.

Since the previous application Natural England have changed their comments from the previous scheme and withdrawn their previous objection. There are no objections from any statutory bodies who deal with habitats, protected species, ecology and biodiversity.

By linking the current application to the previous application MC/14/1630 through a unilateral undertaking then the ecological and landscape benefits of the works to Alpha Lake could be considered to offset the habitat loss at Chalk Lake.

Principle

The principle of significant infilling of Chalk Lake has been accepted on a number of occasions in the past with several planning applications approved on site. Planning permission has previously been granted for some infill of Chalk Lake and for infilling of nearby lakes in the RSPB area, most recently, for restoration to a 1.5m deep water body using naturally occurring materials derived from major infrastructure projects as part of a habitat enhancement project covering Chalk Lake and Alpha Lake as well as adjoining RSPB land approved under reference MC/14/1630. The current application seeks complete land based restoration to pre-extraction levels so that none of the lake remains and the land is put to pasture.

Chalk Lake is within the Area of Local Landscape Importance (ALLI) as defined on the Local Plan Proposals Map. Policy BNE34 states that development will only be permitted if it does not materially harm the landscape character and function of the area; or the economic or social benefits are so important that they outweigh the local priority to conserve the area's landscape.

Part of the objection to the previous application that was refused under reference

MC/16/4722 was that these works have not commenced and could not be considered to form part of this decision. However, if this application is approved there is no guarantee that the works approved under MC/14/1630 will go ahead.

This application makes reference to the ecological benefits of the wider works to Alpha Lake and the surrounding area under application MC/14/1630 as being justification for the loss of habitat and impact on the ALLI. A unilateral undertaking has been submitted to link the previous application MC/14/1630 to the current application.

The statutory bodies that deal with habitats, protected species and ecology, Environment Agency, Natural England, RSPB and KCC Ecology have all raised no objections to the proposal subject to the imposition of appropriate conditions so it would be difficult for the Local Planning Authority to suggest that the proposal should be refused on these grounds.

Environmental Impact Assessment

It has been determined through the formal screening exercise under reference MC/16/3031 that the current proposals require an Environmental Impact Assessment, as such an Environmental Statement has been submitted as part of this application. The report assesses the effects on ecological receptors during construction and operational stages of the project. The report concludes that the proposed development could be implemented without resulting in significant environmental impacts.

Ecology

The proposal would lead to the permanent loss of this aquatic habitat and aquatic flora and fauna, changes to terrestrial habitat, displacement of fauna, including avifauna and water voles, effects on higher fauna from water quality changes and disturbance from dust and damage to habitat around the outer margins of the application site. The report suggests mitigation measures and concludes that the net residual effect of the proposals on biodiversity is neutral to slight negative. It goes on to state that it needs to be considered in the context of the related landscape enhancement works to Alpha Lake and Cliffe Pools, which would result in significant environmental benefits overall.

The permanent changes to habitat and permanent changes in use of the site by species following complete restoration would be contrary to policy objectives, however conditions have been recommended to ensure that this loss or harm would be kept to a minimum.

Visual Amenity

A landscape and visual impact assessment has been submitted with the application. This report concludes that Chalk Lake already has permission to be substantially filled, it is screened by hedgerow and cannot be seen from public viewpoints. This is accepted, however in the Medway Landscape Character Assessment (March 2011) the site is located within the 'Cliffe Pits and Pools' character area. Within the Medway Local Plan 2003 the site falls within an area designated as an Area of Local Landscape Importance. Policy BNE34 of the Local Plan refers to this area as being

within Cliffe Pools and Pits. The preamble to the policy states 'Industrial activities remain but the role of the ALLI is to inhibit further destruction of the landscape, protect the rural recovery that has occurred, and encourage further positive efforts to restore the landscape.'

The proposal would result in some harm to the landscape character and function of the Cliffe Pools and Pits Area of Local Landscape Interest, however conditions are recommended to ensure that there is minimal harm to the character of the wider countryside location. On balance, the proposal is acceptable.

Residential Amenity

There are cottages on Salt Lane close to Chalk Lake. Given that delivery of fill material is to be solely by rail and river transport there should not be any impact on the amenities of residents beyond the immediate area. Noise and other disturbance in relation to works to Chalk Lake would not be significantly higher than the existing operations on site. It is considered that there are no objections in relation to the impacts in relation to residential amenity. Conditions to control hours of operation and the production of a construction and environmental management plan to protect residential amenity could be imposed. The proposal is considered to comply with policy BNE2, BNE3 and BNE24 of the Local Plan.

Water Environment

A hydrology and hydrogeology report has been submitted as part of the application. The report states that the ground water and surface water are unlikely to be affected but a chalk liner is included in the design for safeguarding and other mitigation measures suggested. There are no objections from the Environment Agency subject to appropriate conditions. The proposal is considered to comply with Policy BNE23.

Flood Risk

The site falls within an area identified as being in a 'flood risk' zone. An assessment of flood risk is included in the application submissions. The site is within an area which could be affected by 1 in 200 year flooding from the sea, however it is also in an area which benefits from flood defences such that the risk of flooding is therefore reduced below this. The Environment Agency raised no objections. As such the proposal is considered to comply with policy CF13 of the Local Plan.

Archaeology

It is not considered that there will be any harm to the archaeological interests.

Transport

The development would not result in any impact on the local highway network. The materials would be imported by boat, barge or rail and any vehicular movements would all take place on internal roads/ways within the applicant's site. There are no objections to the development in highway terms.

No public rights of way would be affected by the proposal.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

It will be seen from the above that this scheme is considered to provide a number of significant benefits consistent with the designations and character and amenities of the area. Whilst there will be some loss to the landscape there will be improvements in relation to ecological and visual amenity. The operations will cause some disruption and will need to be carefully controlled and monitored but in overall terms it is considered that subject to appropriate conditions, the development is acceptable and consistent with the development plan and other policies for the area, having been assessed in relation to Policies S1, S2, S4, S6, BNE1, BNE2, BNE6, BNE21, BNE25, BNE34, BNE35, BNE40, BNE45, L1, L10, CF12 and CF13 of the Local Plan.

The application would normally be determined under delegated powers but is being referred to Planning Committee due to the objection from the Parish Council expressing a view contrary to officer recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>