

SECTION '2' – Applications meriting special consideration

**Application No :** 11/04004/FULL1

**Ward:**  
Cray Valley East

**Address :** Bournemouth Sand And Gravel Swanley  
Bypass Swanley BR8 7QH

**OS Grid Ref:** E: 550231 N: 168274

**Applicant :** Bournemouth Sand And Gravel

**Objections :** YES

**Description of Development:**

Change of use of part of existing quarry to allow for the pre-treatment of material prior to infilling by sorting/crushing to recycle any material that can be used to provide recycled aggregates for sale and the provision of associated storage bays

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
Green Belt  
London City Airport Safeguarding  
Stat Routes  
Tree Preservation Order

**Proposal**

This application seeks permission for a change of use of part of existing quarry to allow for the pre-treatment of material prior to infilling by sorting/crushing to recycle any material that can be used to provide recycled aggregates for sale and the provision of associated storage bays. The proposed use would cease upon the cessation of the permitted quarry use in January 2018 (extraction up to March 2017). The 'inert waste treatment facility' is permitted by the Environment Agency by virtue of a variation to the site permit which was granted in 2009.

Although the application form indicates that the works / use have not already started, it is considered that the application is, in part at least, retrospective as there is evidence that sorting and recycling has been taking place at the site recently and this is already the subject of an extant enforcement notice issued in 2003.

The proposal would involve the creation of 8 storage bays along the southern boundary of the site adjacent to the railway, near to which lorries arriving at the site would unload their vehicles to allow the contents to be processed. The bays will be 10m x 10m and 4m high, and they will be constructed on the partly restored quarry

void in 'Area B'. A section demonstrating their proposed height, as well as a plan of levels, is provided with the application, which shows that the top of the bays will sit below the top of the quarry sides.

The aim of the proposal is to enable the operator to pre-treat waste brought to the site to allow any suitable material to be recycled and reused rather than it being used for landfill at the site. The supporting information explains that this will accord with the current EU Landfill Directive as brought forward by the Environmental Permitting (England and Wales) Regulations 2010. It will also be consistent with the aims of the revised Waste Framework Directive and waste hierarchy and relevant planning policies. Further information is provided in the supporting documents.

Essentially, the onsite operation will enable any waste that is not able to be treated at the point of origin to be treated before it is put into landfill, complying with environmental objectives to reduce the amount of landfill. The application documents suggest that this will open up a larger market for material to be supplied to the site.

It is confirmed that aside from the temporary storage bays, no additional permanent infrastructure of buildings are proposed as the activity requires only mobile equipment in the form of two screeners, two crushers, one loading shovel and one 360 degree excavator. This activity has been ongoing at the site at varying scales in recent years and some of the equipment mentioned above can be seen in aerial photographs on file.

The application includes a Planning Statement, a Design and Access Statement, a Transport Statement and plans and elevations. Although a noise assessment and air quality assessment have been requested, the applicants have argued that these are not required. They have cited Planning Policy Statement 10 (which remains extant) which states at paragraph 26 and 27: "In considering planning applications for waste management facilities, waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities." and "The planning and pollution control regimes are separate but complementary. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced."

In relation to this point, Members will note additionally that the Council's Environmental Health Officer (subject to any further comments received following receipt of further information) has commented as follows: "I have considered the above application. All existing planning conditions relating to dust suppression, noise control and times of operation of the site should continue to apply. The

process is Environment Agency Permitted which covers noise and other environmental issues. I understand the proposed activities will require a permit variation which gives the EA an opportunity to consider any necessary further environmental controls. We do not propose any duplicate controls through the planning system."

## **Location**

The site is situated between the A20 Swanley Bypass (east), a railway line (south), open agricultural land (north) and a woodland known as Bourne Wood which is a Site of Importance for Nature Conservation (west). The site is located on the eastern edge of the Borough and residential properties in Sevenoaks District Council are situated on the opposite side of the A20. The site is within the Green Belt and other land to the west of the A20 is generally undeveloped and open in character.

The site has a vehicular access onto the A20 and is a working quarry, with extensive excavations across the site and with several buildings and structures and a significant amount of plant and machinery stored. An additional vehicular access has been formed from the rear of the site onto the public footpath FP170.

## **Comments from Local Residents**

A number of objections have been received from local residents. The issues raised are summarised below:

- noise pollution from the site spoils enjoyment of garden and this will increase
- dust / air pollution will increase with additional vehicles and activity combining with the higher than average pollution from the A20
- use of access to Hockenden Lane should be prevented by condition
- owner has no regard for legal requirements or the countryside
- proposal will be harmful to the character and visual amenities of the area and the openness of the Green Belt given the wide visibility of the site
- predominant wind means that Swanley is mainly affected by this site and often in the summer windows have to be closed
- light pollution from the site
- the site has become more and more commercial despite being in the Green Belt and residents of Crockenhill are blighted by the constant noise, dust and visual impact
- the quarry is an eyesore visible from Green Court Road and the A20
- this proposal represents an intensification of the use of the site which will result in additional noise and visual impact on local residents

Swanley Town Council object to the application as it will have a greater impact on the Green Belt, will cause additional noise and dust and potential land pollution, will increase traffic on the A20, and demonstrates that the applicants have no desire to cease the use of the land by January 2018.

Crockenhill Parish Council strongly object on the basis of noise from crushing equipment which will potentially persist all day when the quarry is in operation, that the proposal will have a visual impact on the openness of the Green Belt, it will result in increased traffic and that a similar application was previously refused.

CPRE Protect Kent have commented that the proposed operations will have a serious environmental impact on the neighbouring village of Crockenhill and raise concerns that the owners have a history of not complying with the environmental regulations upon which they rely to justify the proposal.

### **Comments from Consultees**

The Environment Agency has no objection to the proposal on planning grounds but do offer advice to the applicant regarding drainage concerns, and state that a variation to the current permit is likely to be required including permission for the new storage bays and materials storage and a revised risk assessment. The proposed recycling area should not interfere with the restoration of the site.

The Council's Environmental Health Officer (EHO) has commented that all existing planning conditions relating to dust suppression, noise control and times of operation of the site should continue to apply and that the process is Environment Agency (EA) Permitted which covers noise and other environmental issues. The proposed activities will require a permit variation which gives the EA an opportunity to consider any necessary further environmental controls. We do not propose any duplicate controls through the planning system. Further consultation with the EHO has been carried out following the receipt of a number objections relating to noise, dust and air quality and further correspondence between the Council and applicants on this matter. Any further views will be reported verbally.

Sevenoaks District Council have objected to the application as insufficient information has been submitted to demonstrate that the extended operations would have no greater harm upon air quality within the adjacent designated A20(T) Air Quality Management Area (AQMA) and that no greater harm to amenity of nearby existing and future residents from poor air quality and noise, with particular regard to housing allocation land at Cherry Avenue, Swanley.

Kent County Council (KCC) support the application and state that the application would be supported by the Waste Framework Directive (2008 98EC) and the National Waste Strategy 2007 supported by Policies 5.15 and 5.16 of the London Plan 2011. KCC consider that the proposed development would help the site remain competitive by attracting waste to the site which in turn would help the restoration of the mineral workings, according with the KCC Minerals and Waste Core Strategy. KCC also consider that the site is in a good location to intercept London waste going into Kent which would enable London to process waste produced within London rather than exporting it to Kent and other areas which would help ensure that London reaches its objectives of sustainable development. It is further considered that the proposal would assist in reducing the distance that waste would travel to management facilities. They confirm that Kent Highways Authority has no objection.

Network Rail has no observations on the proposal.

The Council's Highways Engineer comments that the continuing issue from the highway point of view relates to now unlawful obstruction/damage to the surface of the original route of Footpath 170. The temporary diversion order expired in July 2011 and no alternative legal measure has been applied for, although the Transport Statement (TS) suggests that an application is pending. It does not say, however, why there has been a delay with this.

As such enforcement action may have to be considered by the Council and an informative regarding this is requested.

This proposal is based on 50% of material being recycleable, but the TS acknowledges that it is possible for this to be as high as 75%. No justification has been given for using the assumption of 50% and reference is made to the reduction in trips should the level be lower, but no acknowledgement is made of the increase that might occur if it is higher. At 50%, the suggestion appears to be that trips could increase from the current average of 64 per day by anything between 120 and 200 extra trips per day. This seems significant to me and I consider that the Department for Transport and TfL should be consulted on this application. It certainly makes it essential to ensure that the vehicles associated with this proposal do not use local roads, particularly Hockenden Lane, and so at the very least a Construction Management Plan should be required via standard condition H29. This should be reinforced with a further condition requiring all vehicular access/egress to be from/to the A20.

The suggestion is that staff numbers would increase from 10 to 15 and that parking would be in accordance with Council standards. It is suggested that at least 15 spaces should be provided. No detail for parking is provided and so condition H02 would need to be applied. It would also be helpful if clarification could be sought on the information included in the application form which seems to suggest that parking provision on the site would be reduced by 12 spaces.

The Highways Agency (who control the A20) offer no objection to this proposal.

The Council instructed a specialist Minerals Consultant who has previous experience of this site to comment on the application proposals. The full advice is on file, and is summarised as follows: Concerns are raised that the application does not include a noise or air quality impact assessment by suitably qualified professionals and there is therefore nothing within the application which would enable the Council to judge whether such impacts will be acceptable. It is considered that there may be a cumulative impact of the existing and proposed operations, despite the fact that some recycling is already taking place. Crushing of brick, concrete etc is a potentially noisy and dusty activity and this should be properly addressed before the application is considered.

The report continues to say that it is reasonable to assume that there is a demand for the proposed activity at the site, although often the types of inert waste brought to sites like Bournewood are sorted at the point of origin. It would be important to ensure that only the waste currently allowed to be brought to the site can be sorted otherwise the overall nature and use of the site could alter, this matter is not

currently addressed within the application. From a minerals point of view the consultant concludes that although such a proposal may be difficult to resist, the application is lacking in appropriate detail to consider it properly.

Following further correspondence from the applicant's Environmental Consultant the Council's consultant provided further advice in which he points out that the application site is an existing quarry and the proposal is closely linked to that use, and therefore will affect and interrelate with the minerals extraction as well as constituting a waste operation, meaning that the Council can rightly consider the application as Minerals Planning Authority as well as Waste Planning Authority.

The report disagrees with the applicant's consultant's assessment regarding how national policy and guidance requires applications such as this to be assessed, and states that the National Planning Policy Framework 2012 (NPPF) specifies that air and noise assessments should be included within a minerals application. He also points out that the applicants have cherry picked information from PPS10 which, if you continue beyond the quoted sections, points out that paragraph 29 says: "In considering planning applications for waste management facilities waste planning authorities should consider the likely impact on the local environment and on amenity (see Annex E). These can also be concerns of the pollution control authorities and there should be consistency between consents issued under the planning and pollution control regimes." (In this regard it is unfortunate that the Environment Agency have issued a permit for an activity which does not at the present time benefit from planning permission). Furthermore Annex E of PPS10 states that in testing the suitability of sites Waste Planning Authorities should consider factors which include "air emissions, including dust" and "noise and vibration".

Additionally the consultant is concerned that without any base data for noise or air quality, it will be impossible in the future to assess whether any such nuisance is being caused by the quarry or the recycling activity.

### **Planning Considerations**

The application falls to be considered with regard to the following policies in the 2006 Unitary Development Plan:

- T2 Assessment of Transport Effects
- T3 Parking
- T18 Road Safety
- BE1 Design of New Development
- NE2 and NE3 Development and Nature Conservation Sites
- NE12 Landscape Quality and Character
- G1 The Green Belt
- G14 and G15 Minerals Workings and Associated Development
- ER2 Waste Management Facilities

London Plan 2011 policies of relevance include:

- 5.16 Waste Self-Sufficiency

- 5.17 Waste Capacity
- 5.18 Construction, Excavation and Demolition Waste
- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 7.16 Green Belt

National policy of relevance includes:

National Planning Policy Framework 2012  
Planning Policy Statement 10 - Planning for Sustainable Waste Management

### **Planning History**

Planning permission was initially granted at appeal under ref. 96/00962 in 1997 for the "Extraction of Thanet sand and restoration and re-contouring by disposal of inert waste and creation of new vehicular access." at this site.

"Details of dust suppression noise control and protection of the water course, signing changes on the A20(T) restoration and aftercare of the site, retention and protection of trees and hedgerows, trespass proof fence pursuant to conditions 06, 14, 17, and 18 of application ref. 96/00962 granted on appeal for extraction of Thanet Sand and restoration and re-contouring by disposal of inert waste; creation of new vehicular access" were approved under ref. 99/02071.

In 2000 permission was granted by the Council for some changes to the permitted scheme under ref. 00/02071 for "Variation of condition 20 of application ref. 96/00962 granted on appeal for extraction of Thanet Sand regarding restoration and re-contouring by disposal of inert waste, creation of vehicular access, the reduction in the width of the surface berm running along the eastern boundary of the site. Erection of repair shed. Erection of security compound comprising 3m high steel palisade fence around perimeter of compound, caravan for overnight accommodation for security guard, storage container, mess hut and 2 storey office/inspection facility. Erection of 3 metre high steel palisade fence along northern boundary of the site." This was the most recent permission for the site until its expiry in January 2011.

Application ref. 00/03685 was submitted on 20 November 2000, and a duplicate application (ref. 01/00200) was submitted on 18 January 2001 for 'Use of land for the recycling of inert waste materials using one crushing machine and two screeners; the blending of the recovered aggregate with Thanet Sand to produce secondary aggregates; provision of spoil heap; and storage area for processed materials'. The former was dismissed at appeal following an appeal against non-determination, and the latter refused. The grounds for refusal (and contesting the appeal) were as follows:

The applicant has failed to demonstrate that very special circumstances exist to justify the grant of planning permission for a proposal which is industrial in nature and which is inappropriate development in the Green Belt and is therefore contrary to Policy G2 of the Bromley Unitary Development Plan 1994 and Planning Policy Guidance Note 2.

The proposal is contrary to Policies C17, C18 and G30 of the Unitary Development Plan 1994 due to the likely significantly adverse effects on residential amenities, the landscape and the surrounding rural area by reason of noise, dust, vibration and increased movements of HGV's.

The applicant has failed to provide information to demonstrate that the proposal will not prolong the duration of the current permission for extraction, infilling and restoration which would result in an unacceptable timescale for the approved operations , contrary to Policy G2 of the Bromley Unitary Development Plan 1994, Planning Policy Guidance Note 2 and Minerals Planning Guidance Note 1.

The applicant has failed to provide information to demonstrate that the proposal will not result in a safety hazard to traffic using the A20(T) which would be contrary to Policy T3 of the Bromley Unitary Development Plan 1994.

Application ref. 01/00675 was approved on 26 April 2001 for "Details of landscape scheme to security compound pursuant to condition 24 of permission ref. 00/02071 granted for extraction of Thanet Sand and restoration and recontouring by disposal of inert waste with associated access, security fencing and compound".

Application ref. 01/01377 was refused on 23 July 2001 for "Variation of condition 03 of permission ref. 00/02071 regarding extraction of Thanet Sand to enable a revised phased working."

Enforcement and Stop Notices were served on 4 April 2003 against the "material change of use of the site from excavation of sand and gravel to use for the excavation of sand and gravel and the crushing and sorting of waste materials and the stationing of two pieces of crushing machinery and one piece of sorting machinery". An appeal against these was dismissed on 20 January 2004. The notices were marked as complied with on 17 June 2004, however the breach appears to have re-occurred in recent years as can be seen on aerial photographs on file.

Replacement workshop, weighbridge, offices and parking area were permitted in 2008 under reference 08/03444, as the area within which the original site offices were located is intended to be excavated.

Application ref. 09/02818 for an extension of time for extraction and infilling was withdrawn by the applicant in order that further discussions could take place. Application ref. 10/00657 was refused permission for an extension of time until 2018 for extraction and infilling on the basis of the harm the ongoing extraction would cause but subsequently granted at appeal subject to conditions, and this is the current permission under which the site is operating.

Application ref. 11/00140 was granted permission for Variation of conditions 1,12,13 and 16 of ref. 00/02071 and condition 1 of ref. 08/03444 to allow infilling only of existing quarry with inert waste and restoration with associated access, buildings and structures to continue/ remain until 14 January 2018.



Injunction action was authorised in September 2011 to pursue the extant enforcement notice from April 2003 against the unauthorised sorting use and associated machinery, however given the timescale since the previous dismissed appeal against the enforcement notice this action has been held in abeyance to give the applicant an opportunity to submit and have considered this current application with regard to current material planning considerations.

A Breach of Condition Notice was issued in January 2012 regarding the use of the secondary access along Footpath 170 to Hockenden Lane by quarry related vehicles.

An Enforcement Notice was issued in March 2012 against the unauthorised change of use of part of the site for the material change of use from a quarry to mixed use as a quarry and use for batching of concrete and associated materials and plant, parking and storage of plant, vehicles and machinery not required in connection with the authorised use as a quarry. The applicant had asked for an extended period of compliance until 1 July 2012.

## **Conclusions**

There are a number of key issues to be considered in the determination of this application, some of which are set out in the applicant's Planning Statement:

Appropriateness of the proposal within the Green Belt:

The applicant considers that the proposal should be considered as appropriate development within the Green Belt due to its interrelationship with the existing quarry use, which in terms of both extraction and infilling, the Inspector in the 2011 appeal considered was appropriate in the Green Belt. However, the Inspector's reasoning for this view was that extraction and infilling of a mineral site can be appropriate in the Green Belt as set out in established policies, however both these activities must by their nature take place where the mineral is found, and this is not the case with the pre-treatment of waste, which is not bound to take place at the extraction or infilling site. In the appeal decisions from 2002 and 2004, both parties and the Inspector in each case considered that processing of waste in a manner apparently identical to that proposed in this case was inappropriate in the Green Belt. It is therefore considered that this proposal is also inappropriate within the Green Belt and that in order for permission to be granted, very special circumstances to outweigh any harm caused would need to be demonstrated.

The Planning Statement does suggest such very special circumstances in the event that the Council disagree that the proposal is appropriate. These can be summarised as follows:

The proposal is necessary to facilitate the (appropriate) extraction of minerals:-  
It is not considered that this is the case since the extraction of minerals and infilling would be able to take place without on site pre-treatment, although clearly it would be more convenient for pre-treatment to take place on site. Given that this statement is not considered to be correct it cannot outweigh the harm that would be caused.

The legislative requirement for waste to be pre-treated and a duty not to landfill re-useable materials:- The legislation does not require pre-treatment to take place at the site or within the Green Belt and whilst it is clear that pre-treatment is encouraged and the benefits are acknowledged, it is not considered that these benefits outweigh any harm that would occur. Waste can be pre-treated at any suitable location to meet this requirement and this activity does not need to take place at the site within the Green Belt.

Given the limited number of such sites, this proposal is unlikely to be repeated other than in exceptional circumstances:

Whilst it is acknowledged that there are few similar sites, and that policy does encourage recycling at minerals sites, this point carries limited weight when no reason other than convenience has been provided for the need for the pre-treatment to take place at the quarry within the Green Belt rather than in another location outside of the Green Belt, and no information has been provided regarding potential alternative sites that have been investigated.

The activity will be limited to the life of the quarry:

The life of the quarry is a further 6 years from now which is a considerable period over which harm to the openness of the Green Belt will occur. Additionally there is no guarantee that, in 2018 the applicants would not present the Council with a similar situation as that in the recent application and appeal whereby extraction of the mineral has not been completed and the life of the quarry will need to be extended, which might prove similarly difficult to resist. Therefore the argument that the activity will be limited to the life of the quarry is not considered to be a compelling one with regard to limiting harm, especially given the potential difficulty of controlling waste processed at the site to that intending to be ultimately destined for the landfill. It is not considered that this outweighs the harm that would be caused.

It is further suggested that the high environmental standards required for minerals sites will be maintained by this proposal and will assist with the restoration of the site. It is difficult to understand how increased vehicular trips and potential dust and noise creating activity would improve the environmental standards of the site. In fact this would suggest that the pre-treatment would be far better located outside of the Green Belt at an appropriate waste sorting facility.

The recent changes to landfill legislation are also cited as a very special circumstance, however whilst this does place the onus on landfill operators to recycle, nothing in any current legislation states or suggests that this should be considered a reason to locate such activity in the Green Belt. The duty does not have to be met specifically at this site, but simply before waste is put into landfill. Additionally there has been an emphasis on reducing landfill for many years and not just in recent legislation. The Inspector in 2002 (para 22) stated that the general need for recycling facilities and the site's good location in respect of the road network and major urban areas did not amount to very special circumstances. He continued "What would be needed, in my judgement, is clear evidence of an unmet need, and that this unmet need cannot reasonably be met on a site outside

the Green Belt." This was despite a case being made by the appellants of other sites at that time. The applicant has not provided information about any alternative sites and it is not considered that this outweighs the harm that would be caused.

Policy G14 and G15 of the UDP require that any associated development on minerals sites is essential to the viability of the proposal and that the effects of extraction and associated development are minimised. The application submission has not suitably addressed either of these policies, in particular no evidence that the pre-treatment is essential to the viability of the proposal has been provided.

In summary, the proposal is considered to conflict with Policies G1, G14 and G15 of the Unitary Development Plan, Policy 7.16 of the London Plan and guidance in the National Planning Policy Framework 2012 in that it conflicts with the purposes of including land within the Green Belt, representing encroachment into the countryside and extending industrial activities into the countryside. The proposal is not so related to appropriate minerals extraction that it must take place at the site and constitutes inappropriate development in the Green Belt, as acknowledged by two previous Inspectors at appeal, and the very special circumstances put forward by the applicant are not considered suitably compelling as to outweigh the harm caused by this proposal and the intensification of the activities at the site.

Harm to openness and character of the Green Belt and area:

Whilst the legitimate activities at the site for mineral extraction and necessary consequent infilling were found to be acceptable in the recent appeal, a previous Inspector in 2002 considered there to be "harm beyond the definitional" caused by the additional visual intrusion over and above the permitted use of the quarry, caused by the additional vehicle movements, additional plant and machinery, and stockpiles and storage heaps. In this proposal the storage would cause further intrusion by the establishing of formal storage bays at a relatively high level within the site. The applicants views that no such visual impact would occur are therefore not accepted and it is considered that there would be actual harm caused to the openness and character of the Green Belt.

Environmental Impact:

The applicant has declined to submit an air quality or noise assessment to support this application, for reasons set out above. This has been the subject of discussions between the applicant's representatives and the Council and, whilst it was agreed to validate the application, the lack of such assessments has made it difficult to properly consider how the proposal might impact on local residents, including a number who have objected on the grounds of noise and dust, or the adjacent Air Quality Management Area (AQMA). Whilst it is accepted that there is and would need to be a suitable Environment Agency permit covering pollution control, it is clear that there is a place in the planning process for consideration of such issues and that they should not be entirely ignored as suggested by the applicants.

The Planning Statement explains that in respect of noise, a Noise Management Plan is included within the Design and Access Statement. Whilst this sets out

general measures to reduce and control noise, it does not provide any assessable data, either base data for the current operation or predicted change with the proposed operation, and furthermore includes phrases such as 'consideration will be given' to replacing noisy older equipment, which provides no safeguard. It does not provide a basis on which the Council can conclude with any certainty that the proposal will not result in unacceptable levels of noise alongside the existing operation.

The Inspector in the 2002 decision (para 13) considered that "the whole of the recycling activity would give rise to the potential for considerably more dust than the existing quarrying operation". In 2004 the second Inspector was also concerned with dust and came to the conclusion that it constituted an important disadvantage which constituted a further reason not to issue a consent. He was particularly concerned that there would be a real risk that the corridor of poor air quality which already appertains along the A20 would be enlarged. The consideration of these issues in each appeal added weight to the Inspector's decision to dismiss the appeal, and in this case in the absence of any detailed submissions by the applicant it is very difficult to be certain that air quality or noise would not be factors that would lead to the refusal of the application. It is not considered, contrary to the view set out in the Planning Statement, that circumstances have changed so much since 2002 or 2004 that a different conclusion should be reached on these matters, particularly without any detailed evidence upon which to rely.

Although the Planning Statement concludes that the proposed measures will protect the surrounding area from noise, and that the proposed activity need not result in additional dust, there is no convincing substantive evidence to support this conclusion other than assumptions made by the author. It is noted that the Environmental Permit will control such matters so as to reduce their impact as much as possible, however for the purposes of determining this planning application it is not possible to come a satisfactory conclusion that such controls could be suitably effective based on the information submitted.

In summary, it is considered that in the absence of any compelling information to the contrary, the proposal could impact upon the amenities of nearby residents by way of noise and reduction in air quality and is therefore contrary to Policies BE1 and ER2 of the Unitary Development Plan and 7.14 and 7.15 of the London Plan 2011 and Planning Policy Statement 10.

#### Highways Matters:

The applicant considers that there will be no harmful impact through additional traffic movements and this conclusion is supported by the Highways Agency, who control the A20 and do not object to the application. The Council's Highway Engineer does question some of the calculations but does not object in principle on the basis that the appropriate Highway Authority for the A20 are consulted, and standard conditions are imposed to ensure parking provision, and access only from the A20.

On balance the proposal complies with the requirements in Policies T2, T3 and T18 of the UDP.

## **Conclusions**

It is acknowledged that there is policy support and identified environmental benefits which would result from allowing the pre-treatment of waste at this site, however this must be balanced against the location of the site within the Green Belt, its relationship with residential properties and with regard to previous decisions and the specific circumstances of the site.

Firstly, as set out above, it is considered that the proposal would be inappropriate in the Green Belt, and the very special circumstances provided by the applicant are not considered to outweigh the harm that would be caused by the additional vehicles, activity, plant and development. Furthermore these factors would also intensify the use in a manner that would cause actual harm to the Green Belt by reason of harm to openness and character.

Secondly, no compelling evidence has been submitted to demonstrate that the proposal will not have an additional adverse impact on the amenities of nearby residents in terms of noise and dust, and also that it would not affect the existing AQMA in Sevenoaks, about which the adjoining authority have raised concerns.

Thirdly, there are very real concerns about the likely effectiveness and enforceability of conditions in relation to this site, and consequently whether conditions governing the use of such a facility would meet the relevant tests in the Circular 11/95. The manner in which the site has been operated in the past by the current applicants, including a number of breaches of planning and environmental controls, including planning conditions, does not provide any confidence that any conditions imposed would be complied with.

Monitoring the types of material being recycled and identifying whether they are delivered to the site for sorting prior to landfill (or whether they are arriving simply to be sorted and resold), and ultimately preventing the recycling becoming a separate use and profitable interest in itself would be extremely difficult for the Local Planning Authority. In the circumstances, which are that the proposal could not be acceptable without conditions governing the nature of the pre-treatment facility, it would not be appropriate to grant permission subject to conditions which would not meet the tests in Circular 11/95 in that there would be doubt that such a condition would be enforceable. This adds weight to the conclusion that permission should not be granted.

Twice Planning Inspectors have come to a clear conclusion that the proposal to pre-treat waste is unacceptable at this site. In both instances it was concluded that the proposal was inappropriate in the Green Belt and that there was additionally actual harm likely to be caused by reason of the additional development, vehicles and plant which would be required. The designation of the land as Green Belt and the general nature of the proposals has not changed since these decisions, nor has policy insofar as it relates to the Green Belt or the general thrust of environmental and waste policies.

Both Inspectors also raised environmental concerns which have not been addressed in this submission to the extent that confidence can be had that fundamental concerns will not arise as a result of impacts of the proposal, and therefore it is not possible to assess whether the use of land proposed is acceptable.

Suggested benefits around attracting increased deliveries to the site are difficult to assess, since there would clearly be additional products created and sold from the pre-treatment process, some of which could compete with the Thanet Sand and potentially even slow the rate of extraction and infilling, extending the timescale of the operation. No evidence of alternative sites has been provided to demonstrate that the Green Belt is the only possible location for this facility.

On balance, it is recommended that permission be refused.

Background papers referred to during production of this report comprise all correspondence on files refs. 96/00962, 99/02071, 00/02071, 01/01377, 08/03444, 09/02818, 10/00657, and 11/00140, excluding exempt information.

as amended by documents received on 01.05.2012 04.05.2012

## **RECOMMENDATION: PERMISSION BE REFUSED**

The reasons for refusal are:

- 1 The applicant has failed to demonstrate that very special circumstances exist to justify the grant of planning permission for a proposal which is industrial in nature and which is inappropriate in the Green Belt, harmful to the openness and character of the area and therefore contrary to Policies G1, G14 and G15 of the Unitary Development Plan, Policy 7.16 of the London Plan and guidance in the National Planning Policy Framework 2012.
- 2 In the absence of any compelling information to demonstrate otherwise, the proposal is likely to have significantly adverse effects on residential amenities, the landscape and the surrounding rural area by reason of noise, dust, vibration and increased movements of HGVs, therefore contrary to Policies BE1 and ER2 of the Unitary Development Plan and 7.14 and 7.15 of the London Plan 2011 and Planning Policy Statement 10.

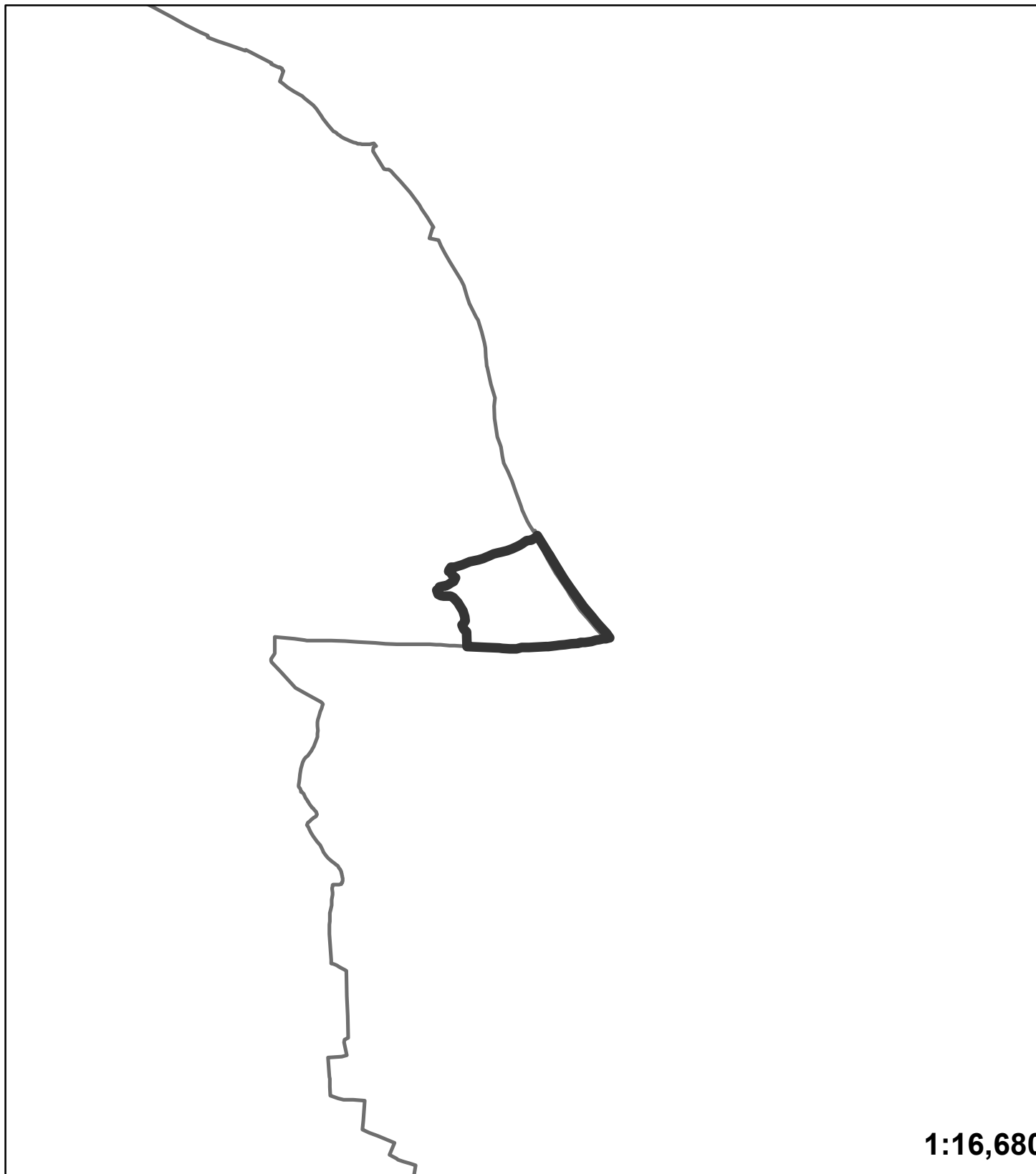
## **INFORMATIVE(S)**

- 1 The applicant is advised that the temporary diversion order for Public Footpath 170 expired in July 2011 and that the Council has no record of any further steps being taken to address this matter, which may result in enforcement action.

**Application:**11/04004/FULL1

**Address:** Bournemouth Sand And Gravel Swanley Bypass Swanley BR8 7QH

**Proposal:** Change of use of part of existing quarry to allow for the pre-treatment of material prior to infilling by sorting/crushing to recycle any material that can be used to provide recycled aggregates for sale and the provision of associated storage bays



**1:16,680**