

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The application was withdrawn from the agenda for Plans Sub Committee on 19 July 2012 in order that the applicant could address some of the concerns raised, in particular the matters regarding noise and dust. The report has been updated to include consideration of additional material received on 17 August 2012.

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 and potentially result in the faster infilling of the quarry.

It is confirmed that aside from the temporary storage bays, no additional permanent infrastructure or 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, Environmental Scheme to Identify, Mitigate, Control and Monitor the Impacts of Noise and Dust and plans and elevations.

The applicants had previously 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."

However, following the previous withdrawal from committee an updated letter with an accompanying Environmental Scheme has been received from the applicant's consultants in response to concerns raised by the Council that it would not be possible to exclude noise or dust problems based on the submitted information. The letter explains that notwithstanding the applicant's views regarding the need for such assessments and the likely impact of the proposal, a specialist environmental consultant has been commissioned and has reviewed all of the information regarding noise and dust and produced an 'Environmental Scheme to Identify, Mitigate, Control and Monitor the Impacts of Noise and Dust.' This document sets out the procedures to be adopted and measures to be taken to identify, mitigate, control and monitor the environmental impacts from the site.

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. It should be noted that information regarding environmental impacts has been submitted and there is no objection to the measures proposed, however it is confirmed that no base data is provided due to the fact that normal filling operations have been suspended whilst

a new lining is provided to the quarry and therefore any surveys would not accurately reflect a normal base line. The earliest it is stated that these could take place would be mid September when normal traffic flows would resume.

## **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 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 reference 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.

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 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.
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.
3. 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.
4. 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 ref. 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. A recent site visit revealed that some progress has been made in respect of the removal of items and more are currently advertised for sale in specialist publications.

## **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.

The agent has raised further points in respect of the appropriateness of the proposal in a letter received by email on 17 August 2012. In summary he refers to paragraph 90 of the NPPF and considers that the proposal can be regarded as appropriate in the Green Belt as changes of use of land should not be considered inappropriate provided that they preserve the openness of Green Belt and do not conflict with the purposes of including land within the Green Belt. He also considers that the proposed use has a clear relationship with the mineral extraction and infilling, which the Inspector in the 2011 decision considered to be an inevitable consequence of quarrying, and seen in the context of the infilling operations. He continues to explain his view that the proposal does not conflict with the purposes of including land within the Green Belt as set out in paragraph 80 of the NPPF. He accepts that the issues in relation to the fifth purpose "To assist in safeguarding the countryside from encroachment" are finely balanced, but concludes that the proposed activity could be regarded to cause no further encroachment than the already permitted quarrying and infilling, particularly as there will be little change when compared to the current operations.

It is considered that despite the case put forward with regard to the introduction of the NPPF, the conclusions reached above that the proposal is inappropriate are still valid. Whilst the NPPF does not state that changes of use of land are inappropriate, such changes of use fall into the category of development that would not be inappropriate as long as they preserve openness and do not conflict with the purposes of including land within the Green Belt. Although the agent suggests that there would be little change from the current situation, this point is limited in its usefulness since there is already a significant amount of unauthorised activity at the site including sorting and screening of material, concrete batching, unrelated vehicle parking and sales etc. Although there would be in reality a limited difference between proposed and existing, if the site were being operated in accordance with the existing planning permission and conditions there would be a significant difference between existing and proposed activities, since if this proposal were to be permitted there would be increased activity, plant and machinery, physical development in the form of storage bays, and increased vehicular movements. All of this would impact upon and fail to preserve openness.

Unlike extraction and infilling, which cannot take place anywhere other than the Green Belt if that is where the mineral is found, the sorting of materials and their subsequent sale does not have to take place at the site (although it may be convenient). It is not considered that sorting of materials for infill is an inevitable consequence of quarrying, just as the resulting retail sale of such material is also not. With regard to the purposes of including land within the Green Belt, it is not considered that the proposal complies with the fifth purpose "To assist in safeguarding the countryside from encroachment", for the reasons set out above.

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, and this is elaborated upon in the recent submission. 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 substantive 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. It is not considered that this outweighs the harm that would be caused.

The additional information provided highlights the difficulties in sorting material on some larger sites which could supply the quarry, and the likely delay in infilling the void at the quarry if the site is only attractive to some suppliers. It also points out that material may need to be transported further to alternative landfill sites if Bournemouth is unable to accept it and the environmental consequences of this. It is suggested that there are no suitable facilities nearby that could sort the waste, nor any sites available to set up such a facility.

It is acknowledged that there are some benefits associated with the ability to sort materials at this site, and that it is not environmentally desirable for loads to travel further than required, however these matters must be balanced against the harm that would be caused and are not considered to be of sufficient weight to constitute very special circumstances to allow the proposed intensification of uses within the Green Belt beyond that strictly required in connection with the mineral extraction.

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:

An 'Environmental Scheme to Identify, Mitigate, Control and Monitor the Impacts of Noise and Dust.' has been submitted to accompany the application. This document sets out the procedures to be adopted and measures to be taken to identify, mitigate, control and monitor the environmental impacts from the site, although no base data is included. This document does now provide a basis on which the Council can have some degree of certainty about the management of environmental concerns.

This document addresses the issues about which concerns were previously raised by the Council, and subject to any further comments from the Council's Environmental Health Officers, which will be reported verbally, and a condition requiring adherence with the recommendations in the document should permission be granted, addresses the concerns previously raised about the lack of information on this topic.

In this regard the proposal may be considered to be acceptable with reference 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, which controls 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, 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.

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.

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 17.08.2012

### **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.

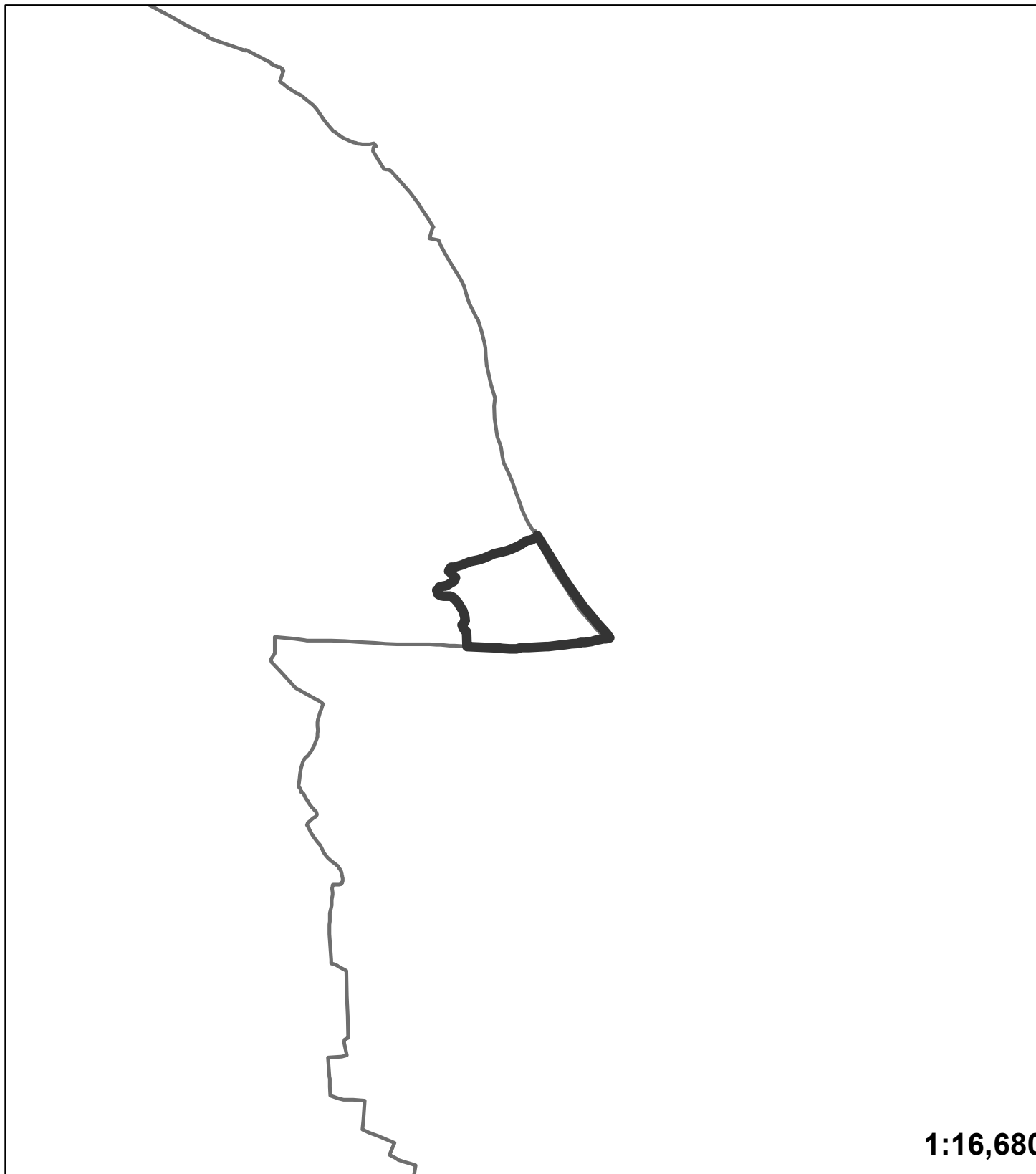
### **INFORMATIVE(S)**

- 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**