

DELEGATED REPORT

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| Application Reference: | 20/2827/RSP |
| Address: | Maple Lodge, Denham Way, Maple Cross, Herts, WD3 9XD |
| Proposal: | Retrospective: Change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment |
| Case Officer: | Matthew Roberts |
| Expiry Date: | 1 st April 2021 |
| Recommendation: | Refusal |
| Plan No: | 400 Rev A; 402; 403 & 513 |
| Checked by: | CW 30/3, |

1. Relevant planning and enforcement history of application site and wider site:

- 1.1 8/97/78: Extension to form offices accommodation and car parking area. Permitted, temporary and personal permission to Thames Water.
- 1.2 01/01721/OUT: Mixed use scheme comprising 150 bedroom hotel, 18,580sq m office development, environment centre, park/land/meadows and landscaping. Refused.
- 1.3 20/2831/RSP: Part Retrospective: Change of use to self-contained offices and use of hanger building for car maintenance and repairs. Pending consideration.
- 1.4 17/0045/COMP: Unauthorised material change of use of land. Pending consideration, enforcement notice served on part of the wider site (land enclosed in blue on submitted location plan).
- 1.5 20/0068/ENFNOT: Enforcement Notice Appeal against Unauthorised material change of use of land to open storage. PINS reference: APP/P1940/C/20/3265160. Pending consideration.

2. Site Description:

- 2.1 The application site comprises a parcel of land within a well-established commercial yard previously owned and used by Thames Water. The application site is currently being used by A1 Concrete Ltd and is accessed via two separate entrances onto the Thames Water service road and via the main entrance into the commercial yard. The application site is predominately bounded by metal fencing.
- 2.2 The wider site as enclosed in blue on the submitted location plan comprises two hanger type buildings (with ancillary offices fronting the service road) and open yards, all of which are being used by a variety of different businesses, without planning permission. The elevated parcel of the wider site (referred to as Site 6 on the submitted location plans) is currently subject to an enforcement notice concerning unauthorised parking.
- 2.3 The application site comprises a number of storage containers (double stacked), sand and aggregate storage and plant and equipment (including silos and a water tank).
- 2.4 With regards to policy designations the application site falls within the Metropolitan Green Belt, Source Protection Zone 1, Flood Zone 1 and a Secondary Centre. It is also located opposite an allocated employment site (E9d).

3. Proposed Development:

- 3.1 This application seeks retrospective planning permission for the change of use to a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment.
- 3.2 The site includes two concrete mixing demonstration silos (up to a height of approximately 21m), a concrete mixing vehicle, sand and aggregate storey bays, hire vehicles, double storey metal containers (height of 11m) (used for storage and office purposes) and a mobile batching plant that according to the submitted Planning Statement demonstrates methods of mixing concrete, its principle use. A number of other activities appear to take place including the hiring out of concrete mixers and pumping machines.
- 3.3 This application proposes some minor changes to the current site circumstances, by ensuring there are no double stacked containers.
- 3.4 The Planning Statement states that the business employs 18 staff, 9 of whom are full time operating within 8am to 6pm Monday to Friday.

4. Consultee Responses:

4.1 HCC Highways Authority: [Provided the following comments]

In order to make a full assessment of the acceptability of the proposals from a transport and highways perspective, HCC as Highway Authority is requesting further details including:

- *the number, location and layout of on-site parking spaces for employees and visitors to the site.*
- *It has previously been observed that vehicles park on the existing footway on the south-west side of the private access road, which would impact the safe and convenient access of pedestrians to the site.*

4.2 TRDC Local Plans Section: [Advisory comments submitted]

The proposal site is within the Metropolitan Green Belt, the National Planning Policy Framework (NPPF) (2019) regards the construction of new buildings in the Green Belt as inappropriate development. The NPPF goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF lists a number of exceptions to inappropriate development:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*
- e) limited infilling in villages;*
- f) limited infilling or the partial or complete redevelopment of previously developed land.*

Whether redundant or in continuing use (excluding temporary buildings), which would:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*

- not cause substantial harm to the openness of the Green Belt, where the
- development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The application proposes the continuation of the sites current use and is on previously developed land. The proposal will assist with sustaining the aspirations of Core Policy 6 of the adopted Core Strategy, which seeks to improve and maintain the economic performance of the District.

4.3 TRDC Environmental Health: [No comments received]

4.4 Watford Environmental Health Team: [Advisory comments provided]

Air quality

The above site is operated by A1 Readymix Concrete Ltd. In the Planning Statement, it says that the subject site includes two concrete mixing demonstration silos, a concrete mixing vehicle, sand and aggregate storage bays, hire vehicles and a mobile batching plant that demonstrates methods of mixing concrete.

The Planning Statement states that the site includes a number of related activities but the principle use of the site is for the demonstration of the concrete mixing process. Related activities include the hiring out of concrete mixers and pumping machines. Scheduled visitors to the site for demonstrations currently occur twice a month from prospective businesses seeking entry into the concrete business. The machinery effectively shows the capability of the equipment and the process of concrete making storage and distribution.

A1 Readymix Concrete Ltd is a supplier of ready mix and volumetric concrete. The company also provides concrete pumping services. The company have made an application for an environmental permit for a concrete batching plant (blending, packing, loading, unloading and use of cement).

The website states that the company is based in Northolt with a depot situated in Rickmansworth. The company say that this gives them a perfect base to supply concrete across the Home Counties and London with their modern fleet of mobile vehicles. The address in Northolt appears to be a domestic residence. The company may have other commercial/industrial premises in Northolt. The site may not be solely used as a concrete mixing demonstration facility including the display and exhibition of concrete making machinery and equipment.

Should an environmental permit be granted, the permit will contain conditions relating to emissions to air, specifically with regards to particulate matter and dust emissions. The details of how emissions will be controlled will be assessed as part of the permit application, however, vehicle emissions would not be considered as part of the application. An air quality assessment is not required as part of the permitting application process.

The application form indicates that there will be parking for two vehicles (a lorry and a car). Aerial photography of the site available on google maps, shows seven vehicles on site. The Planning Statement says that journeys from the site will average 4 trips per day. The Vehicle Operators Licence allows 8 vehicles and 1 trailer to be kept at this operating centre.

The impacts of the development on the local area cannot be assessed. I would recommend

that the applicant be required to submit information relating to the control of emissions. I would also recommend that the applicant be asked to confirm how many vehicle movements will be generated by the process. The need for an air quality assessment can then be assessed.

Land contamination

The site currently has a commercial/industrial use. This land use could have given rise to contamination at the site and in the surrounding area. The site may also have had previous potentially contaminative uses.

However, the proposed development is not considered to be a sensitive end use from a human health perspective. The application is retrospective, significant excavation is therefore unlikely to occur. The site is covered by hard surfacing. Site users and visitors are unlikely to come into contact with contaminants of concern that may be present in the underlying soils. I have no further comments to make with regards to land contamination.

4.3 Thames Water: [No comments received]

During the course of the planning application a meeting between the Case Officer and Thames Water took place virtually on 25 March 2021. Thames Water representatives confirmed that the business only has access rights over the service road and enforcement of unauthorised parking is to occur.

4.4 Affinity Water: [Object]

“You should be aware that the site is located within an Environment Agency defined groundwater Source Protection Zone (SPZ) corresponding to one of our Pumping Stations (SPRW) and in close proximity to others (MILE, STOC, WESY). These are critical public water supply sources, comprising a number of Chalk abstraction boreholes, and supply many residents within Three Rivers District. The site is also potentially on or within close proximity to historic landfill.

*We are writing to **object** to this Application because we are concerned that it has the potential to impact adversely the public water supply. We require further information detailed below in order to be able to fully assess the risks to public water supply abstraction and provide a considered response.*

- Full details of all existing and proposed groundworks, particularly those related to the construction of the silos and areas of hardstanding;*
- Full details of the current drainage scheme for the disposal of surface water, in particular what works have already been carried out in order for the site’s current use and what works are planned for the site’s continued use;*
- Full details of current site activities and planned future activities with regards to, but not limited to, chemical usage/storage and vehicle movements;*
- Full details of current chemical storage, leak detection processes and bunding arrangements;*
- A Preliminary Risk Assessment of the site.*

Any future site development, including for the regularisation of the use, will require the following to be submitted at the time of the application:

- A full Risk Assessment due to risks of disturbing unknown contaminants, puncturing the landfill liner and mobilising pollution, and causing pathways for surface water infiltration which could also mobilise pollution.

- A comprehensive surface water drainage scheme that does not rely on infiltration or soakaways due to the landfill presence and site operation activities. Both risk deterioration of groundwater and mobilisation of existing contamination.

- Details of proposed chemical storage arrangements that include robust leak detection processes and bunding for the protection of groundwater in the event of a spill.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

Water efficiency

Being within a water stressed area, we expect that the development includes water efficient fixtures and fittings. Measures such as rainwater harvesting and grey water recycling help the environment by reducing pressure for abstractions in chalk stream catchments. They also minimise potable water use by reducing the amount of potable water used for washing, cleaning and watering gardens. This in turn reduces the carbon emissions associated with treating this water to a standard suitable for drinking, and will help in our efforts to get emissions down in the borough.

Infrastructure connections and diversions

There are potentially water mains running through or near to part of proposed development site. If the development goes ahead as proposed, the developer will need to get in contact with our Developer Services Team to discuss asset protection or diversionary measures. This can be done through the My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com.

In this location Affinity Water will supply drinking water to the development. To apply for a new or upgraded connection, please contact our Developer Services Team by going through their My Developments Portal (<https://affinitywater.custhelp.com/>) or aw_developerservices@custhelp.com. The Team also handle C3 and C4 requests to cost potential water mains diversions. If a water mains plan is required, this can also be obtained by emailing maps@affinitywater.co.uk. Please note that charges may apply."

4.5 Environment Agency: [Object]

"We **object** to this retrospective planning application, as submitted, because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater resources can be satisfactorily managed.

Reason

This site is located within an inner groundwater protection zone (SPZ1) relating to a groundwater abstraction borehole located approximately 350m north east of the site. Areas in SPZ1 are the catchment areas for sources of potable water, high quality water supplies usable for human consumption. Groundwater at this location is therefore particularly vulnerable to polluting uses on the surface.

In this instance the proposed change of usage includes concrete mixing facilities. Cement and washings from concrete mixing plants can result in an uncontrolled release of high alkalinity pollutants to ground that can that could impact on groundwater quality beneath the site.

This objection is in line with paragraph 170 of the National Planning Policy Framework (NPPF) and Policy DM9 of the Three Rivers Local Plan (2013).

Overcoming our objection

The applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water supplies posed by the change in use at this site can be safely managed.”

4.6 Hertfordshire Ecology: No comments received.

4.7 National Grid: No comments received.

5. **Public Consultation:**

5.1 Number consulted: 18 No responses received: 11

5.1.1 Site Notice: expired 31.03.2021 (Further consultations required)

5.1.2 Press Notice: N/A

5.2 **Summary of Representations:**

- Green Belt which has been damaged and degraded by this illegal operation
- Risks to ground water given site falls within Source Protection Zone 1
- Local health risks to local residents, workers and children
- Concrete and cement dust on children's lungs
- Impact on Soil Association work at Woodoaks Farm
- Contamination risk unknown
- High risk of flooding
- Little economic benefit
- Degradation of local roads
- Poor fit with Council change emergency policies
- Lighting detrimental to wildlife
- Access road to Thames Water has become an unofficial lorry park

Comments were received from Maple Lodge Conservation Society who noted the following:

- Planning brief for the area has not been produced as promised by the Council
- Seems illogical to consider any planning applications for this site before this development brief has been prepared
- Number of planning contravention notices issued
- Use has a greater impact on the openness of the Green Belt
- Fails to comply with Policy CP9 of the Core Strategy
- Risk of pollution

Comments were received from Maple Cross & West Hyde Residents Association who noted the following:

- Land previously owned by Thames Water
- Lack of planning brief is the root cause of repeated inappropriate development
- Floodlighting at night disturbing sleep
- Concrete equipment only operates two days per month
- Silos are an eyesore along with storage containers
- Air pollution
- Fails to preserve openness of Green Belt

5.2.1 **Officer comments:** In respect of flooding, the area is at high risk of flooding from reservoirs

but sits within Flood Zone 1. The Local Planning Authority must consider any planning application submitted otherwise it risks a non-determination appeal and costs. The above points will be considered within the following analysis section.

6. Relevant Planning Policy, Guidance and Legislation:

- 6.1 In February 2019 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2019 NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework".

The Three Rivers Local Plan:

- 6.2 The Development Management Policies LDD was adopted on 26 July 2013 having been through a full public participation process and Examination in Public. Relevant policies include: DM2, DM4, DM6, DM9, DM13 and Appendix 5.
- 6.3 The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include: PSP3, CP1, CP6, CP9, CP10, CP11 and CP12.
- 6.4 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.
- 6.5 Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014).
- 6.5 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.
- 6.6 Community Infrastructure Levy Charging Schedule (adopted February 2015).
- 6.9 Online National Planning Practice Guidance.

7. Analysis:

7.1 Overview

- 7.1.1 Following reports concerning a breach of planning control relating to unauthorised uses spanning the application site and wider site an enforcement case was opened and assigned the reference 17/0045/COMP. After site visits a number of Planning Contravention Notices were issued to various businesses operating from the site. From July 2019 all unauthorised uses ceased from the elevated parcels of land (outside the application site). One use re-commenced and is subject to an enforcement notice and subsequent enforcement appeal which is currently pending with The Planning Inspectorate.
- 7.1.2 This application has been submitted (utilising section 73A of the TCPA 1990) after the land owner was made aware that the current use constituted a material change of use.

7.2 Principle of development

- 7.2.1 The application site falls within a Secondary Centre as set out within PSP3 of the Core Strategy which states that development in such centres will enhance employment opportunities. The site is also located opposite an employment site (E9d) and falls within

previously development land by virtue of the presence of permanent structures which formed part of a historic use by Thames Water.

- 7.2.2 As a result of the site circumstances a commercial presence within the application site is not unacceptable in principle, and clearly some weight must be given to its condition and make-up of the site which is dominated by hard surfacing. Nevertheless, the above view is caveated against other material planning considerations set out below which may make the development unacceptable.
- 7.2.3 Concerns have been raised in respect of the lack of planning brief covering the application site and wider area. Within Policy SA2 (Site E(d)) of the Site Allocations Local Development Document (SALDD) (adopted November 2014) it states that to ensure the long-term and sustainable planning of the area a planning brief will be prepared for the Froghall Farm/Maple Lodge site by the Council in consultation with relevant stakeholders and those with a land interest. This particular site falls outside any allocated site and on the basis that no planning brief has been prepared, no weight can be given to it.
- 7.2.4 The submitted Planning Statement indicates that the site includes a number of related activities but the principle use is for the demonstration of concrete mixing process, although demonstrations only occur twice a month. Consequently, it would appear that the main primary use of the site is for the storage of vehicles, equipment and aggregate with ancillary office use related to the concrete business. The Statement indicates that the business as a whole employs 18 staff, 9 of whom are full time operating between 8am to 6pm Monday to Friday.
- 7.2.5 Following discussions with Thames Water, the site was last used by them and their appointment contractor under permitted development to assist with strategic operations as part of Thames Water's role as a statutory undertaker.

7.3 Impact on Metropolitan Green Belt:

- 7.3.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use. They can assist in moving towards more sustainable patterns of urban development.
- 7.3.2 Local planning policy CP11 of the Core Strategy indicates that there will be a general presumption against inappropriate development that would not preserve openness of the Green Belt, or which would conflict with the purposes of including land within it. Policy DM2 of the Development Management Plan LDD is relatively consistent with the NPPF but it is recognised that it is silent with regards to 'material change of uses.'
- 7.3.3 The National Planning Policy Framework (NPPF) came into force on 27 March 2012 and was revised most recently in February 2019. As with previous Green Belt policy, the NPPF identifies the five purposes of including land in Green Belts as:
- To check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns from merging into one another
 - to assist in safeguarding the countryside from encroachment
 - to preserve the setting and special character of historic towns;
 - and
 - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

- 7.3.4 Within the NPPF at paragraphs 143-144 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 7.3.5 The NPPF makes certain exceptions for development in the Green Belt and these are set out within paragraph 145 and 146. The development seeks a material change of use but also includes operational development in respect of the shipping containers and plant/equipment which are considered to fall within the definition of a building (section 336 of the TCPA 1990). Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions. It is not considered that the structures as mentioned above fall within any of the exceptions detailed within paragraph 145 and thus are automatically considered as inappropriate development. If it is considered that part (g), partial redevelopment of previously developed land applies, it should be noted that the structures would have a greater impact on the openness of the Green Belt than the existing development. The Planning Practice Guidance (PPG) at 001 Reference ID: 64-001- 20190722 states that when assessing the impact of a proposal on the openness of the Green Belt, this requires a judgement based on the circumstances of the case. It goes on to state that the courts have identified a number of matters which may be taken in account, such as, the spatial and visual aspects arising from the development, the duration of the development and the degree of activity.
- 7.3.6 The structures are located in what was, prior to the unauthorised change of use, an open part of the site, enclosed by metal railings which still exist. Whilst the double height stacked containers would be reduced in height which is a benefit, the plant/equipment associated with the concrete mixing demonstration by virtue of its sheer scale and height would have a significant spatial and visual impact. Whilst the equipment has been painted green in an attempt to blend in with the vegetated backdrop, this fails to ultimately hide its scale. It cannot therefore reasonably be assumed that the equipment does not have greater impact on the Green Belt.
- 7.3.7 With regards to the change of use, paragraph 146(e) states that 'certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it'. Whilst concerns exist in respect of the amount of uses operating from within the wider site, it is recognised that the application site is previously developed and was used historically by Thames Water, albeit under permitted development. Whilst no planning permission exists and the starting point would be an open clear site, it is reasonable to assume that use(s) can reasonably operate from the wider site so a degree of activity is not considered to be automatically harmful per se. From site visits it would appear that the primary use of the application site is for storage/parking as the main operational base for the concrete company with a small office within a shipping container. The application site is enclosed by metal fencing and a well-established lighting column has existed for some time. Consequently, the application site is not completely open in character and views at ground level would be obscured, albeit minimally by pre-existing fencing. Any resultant use of the site (excluding the plant/equipment) given its size constraints would be moderate in scale and not significantly higher than the fencing with the vegetated backdrop softening any impact. There would be activity arising from the use, however, this would be well contained within the site and controlled by conditions in the event of an approval. As such, given the site circumstances, it is not considered that the material change of use aspect of the development (excluding the plant/equipment) is unacceptable and there would be no conflict with the purposes of the Green Belt. In light of the above, the presence of the plant/equipment would be inappropriate development within the Green Belt and would, by virtue of their scale, significantly harm openness through its spatial and visual impact.

7.3.8 The harm to the Green Belt by virtue of its inappropriateness and harm to openness can only be outweighed if 'very special circumstances' are demonstrated. This is set out later within the report.

7.4 Impact on local character:

7.4.1 Policy CP1 of the Core Strategy seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.

7.4.2 During the process objections have been raised in respect of the degrading of the local environment and its visual impact. The surrounding area is relatively free of built form development, although this is largely down to the fact that large parts of the adjacent employment site are undeveloped. Given the built-up nature of the application site and as discussed above, it is to be expected that the site can accommodate commercial activity in some form which is sometimes not particularly aesthetically pleasing on the eye. That said, the parking and storage of vehicles and aggregate are largely mitigated by the presence of the metal fencing and public vantage points are limited if the plant/equipment were removed. Additionally, there is also scope, if the application was acceptable, to plant within the grass verges in-front of the railings to soften views into the site (albeit the verge falls on land outside of the application site). Nevertheless, the current use of the application site is dominated by the presence of the plant/equipment which is substantial in scale and industrial in character which is at complete odds with the immediate locality and character of the area. The abovementioned structures therefore have a significant adverse impact on the character of the area and is contrary to Policy CP12 of the Core Strategy.

7.5 Impact on neighbouring amenity:

Deleted: and future occupiers

7.5.1 Policy DM9 of the Development Management Policies LDD states that planning permission will not be granted for development which has an unacceptable impact on the indoor and outdoor acoustic environment of existing or planned development.

7.5.2 Due to the relative isolated location of the application site it is not considered that the activity arising from the application site is harmful to local residents or nearby office businesses. It is recognised that residential properties (Froghall Farm) are located to the north; however, there is a substantial distance and varying land levels between which would largely mitigate any noise as a result of the use. To the south, and some distance away (over 200m) is Longmore Close. Given the size constraints of the site and the limited levels of activity, with the concrete demonstration equipment running only a handful of times a month, it is not considered that unacceptable harm arises. If permitted, the hours of use; 8am to 6pm Monday to Friday are reasonable and would avoid unacceptable noise and disturbance when background levels are at their lowest and the use of the equipment could also be controlled.

7.5.3 In terms of lighting, detail of the lights can be secured by condition, but it is recognised that a pre-existing lighting column has been in existence for some time so the principle of external lighting is acceptable.

7.6 Parking and Access:

7.6.1 Policy CP10 of the Core Strategy (adopted October 2011) states that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District and demonstrate that it provides a safe and adequate means of access.

7.6.2 The NPPF states that development should not now be refused permission on transport grounds unless residual impacts are severe. During the application process the Highway Authority requested further information on the site layout. The site is well served by formal accesses so no concerns are raised in this respect.

7.6.3 Given the relatively uniqueness of the site and its Sui generis use class, parking should be decided on the individual merits of the application.

7.6.4 In terms of on-site parking, limited details have been provided. The business has a heavy goods licence for 8 vehicles and 1 trailer (Licence No: OF2017747) and there is also an expectation that staff vehicles will also be parked on site. The submitted details indicate that the business employs 18 staff, 9 of which are full-time. As such there clearly will be a requirement for staff parking, coupled with the storage of the larger concrete vehicles. Whilst on-site parking can be achieved to a limited degree, there is limited information as to what can be provided on-site and thus there is concern as to whether parking would overflow onto the adjacent private road which falls outside the control of the applicant and is owned by Thames Water. Thames Water have confirmed that the owner of the application site only has a right of access across the highway to Denham Way and thus on-street parking will likely be enforced in the immediate future, although that is not certain. Whilst a planning condition could be imposed to ensure that any vehicles, especially the concrete mixing vehicles, under the control of the business shall not be parked on the service road to safeguard pedestrian access to and from the site from Denham Way, this may be very hard to enforce in relation to staff parking. Consequently, due to the lack of information it cannot be demonstrated that parking would not be displaced onto the adjacent private road which would have an adverse impact on the character of the area and the Green Belt and also limits the usability of the pedestrian pavement.

7.6.5 It is possible to accommodate cycle provision on site in the case of an approval and this could be secured by way of planning condition to enable more sustainable means of travel.

7.7 Contamination

7.7.1 The application site falls within Source Protection Zone 1 relating to a groundwater abstraction borehole located approximately 350m north east of the site. The site is also potentially on or within close proximity to a historic landfill.

7.7.2 Paragraph 178 of the NPPF states that planning decisions ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

7.7.3 Policy CP9 of the Development Management Policies LDD states that the Council will only grant planning permission for development, on, or near to, on land suspected to be contaminated, where the Council is satisfied that:

- i) There will no threat to the health of future users or occupiers of the site or neighbouring land; and
- ii) There will be no adverse impact on the quality of local groundwater or surface water quality

7.7.4 Some of the activities arising from the use such as cement mixing and washing can result in an uncontrolled release of high alkalinity pollutants to ground that could impact on groundwater quality beneath the site. The Environment Agency have therefore objected to the development on the basis that the applicant should submit a groundwater risk assessment that demonstrates that the risks to potable water can be safely managed. Affinity Water have also objected on the basis of lack of information pertaining to the current drainage scheme

for the disposal of surface water and full details of current chemical storage. They require a full risk assessment and a comprehensive surface water drainage scheme.

7.7.5 The application site and wider site (yard areas) are currently paved with hard-surfacing, although it is in need of repair given its age.

7.7.6 The development therefore fails to demonstrate that the risks to potable water can be safely managed, contrary to Policy CP9 of the Core Strategy and the NPPF.

7.8 Sustainability & Air quality:

7.8.1 The NPPF at paragraph 148 states that planning should help to “shape place plays a key role in helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.” The NPPF also states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMAs and Clean Air Zones, and the cumulative impacts from individual sites in local areas. It also advises that opportunities to improve air quality or mitigate impacts should be identified, through measures such as traffic and travel management, and green infrastructure provision and enhancement.

7.8.2 Policy DM9 of the Development Management Policies LDD states that development will not be permitted where it would have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.

7.8.3 The application site does not fall within an Air Quality Management Area. The Environmental Health Officer has commented and requested that further information is required in respect of vehicle movements generated by the process and the control of emissions so an air quality assessment can then be assessed.

7.8.4 Due to the nature of the business, it is considered reasonable to assume that emissions and vehicle movements would have an impact on air quality. However, due to the lack of information, this cannot be quantified as part of the current application.

7.8.5 Furthermore, concerns have been expressed by local residents regarding dust emitting from the use. Due to the lack of information this is again hard to quantify, although steps can certainly be undertaken by the applicant to mitigate the risks, for example, by installing sheeting or means of enclosures within the site to reduce the spread of dust and also be planting greater soft landscaping along the highway edge, as highlighted above. Due to the lack of details, the application fails to comply with Policy DM9 of the Development Management Policies LDD.

7.9 Wildlife and Biodiversity:

7.9.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.9.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and

Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. At paragraph 175 of the NPPF it states that opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 7.9.3 A Local Biodiversity Checklist has been completed by the applicant and submitted with the application. The Checklist concludes that no biodiversity survey or assessment is required in this instance, and the Local Planning Authority is not aware of any protected species on this site. Notwithstanding the above, the application site is located near to two local wildlife sites so the site would potentially be sensitive to wildlife, such as bats. Whilst no information has been submitted nor have Herts Ecology submitted their comments, it is considered that suitable mitigation can take place on site to offset any issues.
- 7.9.4 In terms of external lighting, it is recognised that there is a well-established lighting column and thus it would not be unreasonable to expect the application site to be lit. That said, the specific lighting details can be controlled by condition, including the hours of use balancing against the security requirements of the use.
- 7.10 Are there any 'very special circumstances'?
- 7.10.1 The submitted Planning Statement sets out a number of material considerations which are considered to collectively constitute 'very special circumstances' to outweigh the harm to the Green Belt, through its inappropriateness and harm to openness and any other harm, which includes contamination issues, concerns over air quality and lack of information pertaining to on-site parking levels.
- 7.10.2 The applicant has listed a number of considerations, such as; that the use previously formed part of Thames Water; is next to a designated employment site; the immediate area is industrial, land is previously developed and the use showcases the innovative nature of local business. The applicant also states that mitigation in the form of planting around the boundaries of the site can be undertaken, although provides no specific details. During the course of the application the applicant advised that due to the unique nature of the business it has been hard finding an alternative site and this site offers numerous benefits as it is well separated from residential premises.
- 7.10.3 It is agreed that there are benefits from the business operating from this site given it is well away from residential properties and any other alternative site is likely to be in the Green Belt. Moderate weight is therefore attached to these benefits in favour of the development. However, there are various elements which make the application unacceptable and greater work is required from the land owner to ensure that contamination matters across the whole site are resolved. Whilst the applicant has advised that such reports are costly, this will be down to the applicant and the owner of the land to pursue.
- 7.11 Planning balance:
- 7.11.1 Whilst it is recognised that economic benefits do arise from the use and the ability to showcase the equipment would be of great benefit to the business, such factors only gain moderate weight in the planning balance and are significantly outweighed by the harm.

8. Recommendation:

- 8.1 That **PLANNING PERMISSION BE REFUSED** for the following reasons:

R1: The concrete plant and equipment (including associated silos) arising from the material

change of use constitute inappropriate development within the Green Belt and therefore are, by definition, harmful to the Green Belt. In addition, by virtue of their height, industrial design, scale and siting they have a significant impact on the openness of the Green Belt. No very special circumstances of sufficient weight are considered to exist to outweigh the inappropriateness of the development and identified harm to openness. The concrete plant and equipment therefore fails to comply with Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R2: The concrete plant and equipment (including associated silos) arising from the material change of use by virtue of their height, industrial design, scale and siting have an adverse impact on the visual amenity of the locality and character of the area. The concrete plant and equipment therefore fails to comply Policy CP12 of the Core Strategy (adopted October 2011).

R3: It has not been demonstrated that the activities arising from the material change of use do not adversely impact on the quality of local groundwater quality and that the risk to potable water can be safely managed given the application site's location within Source Protection Zone 1. The development therefore fails to accord with Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R4: It has not been demonstrated that the development would not be subject to unacceptable levels of air pollutants through on-site activities and vehicular movements. In the absence of an Air Quality Assessment the development is contrary to Policy DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

R5: In the absence of sufficient information it cannot be demonstrated that on-site parking levels are acceptable and that parking would not overflow onto the adjacent service road thereby impacting the usability of the pedestrian pavement and also adversely affecting the visual amenity of the area through the presence of on-street parking. The development is therefore contrary to Policy CP12 of the Core Strategy (adopted October 2011) and Policies DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

8.2 Informative:

- 11 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District.