

ITEM NO:

<u>Location:</u>	Land Within Rush Green Motors London Road Langley Hertfordshire
<u>Applicant:</u>	Breedon Southern Ltd
<u>Proposal:</u>	Erection and use of a concrete batching plant together with associated infrastructure and access.
<u>Ref. No:</u>	18/01726/FP
<u>Officer:</u>	Tom Donovan

Date of expiry of statutory period

28th February 2019

Submitted Plan Nos.

17088-11 Rev.P5; 17088-12 Rev.P4; 17088-13 Rev.P3; 17088-14 Rev.P1

Reason for Delay

Extension of time to allow consideration of supplementary documentation. Deferral from December Planning Control Committee.

Reason for Referral to Committee

Councillor Paul Clark has 'called-in' the application in the wider public interest.

This item was deferred by members at the December Planning Control Committee due to the correspondence received from Housing, Communities and Local Government (HCLG) on Thursday 13th December. The correspondence received sets out the requirement that, if members are minded to approve, the Council should refer the decision to the Secretary of State for Housing and not issue the decision until the Secretary of State has confirmed in writing whether he wishes to call-in the application. HCLG has confirmed that the Council is not able to refer the application to the Secretary of State in the absence of a resolution to grant planning permission. If members are minded to refuse planning permission there is no need to refer the decision to the Secretary of State.

1.0 **Site History**

- 1.1 05/00510/1EUD – A certificate of lawful development was granted in 2005 to establish the lawful use of the site for 'storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers'.
- 1.2 16/03171/1 - planning permission was granted in February 2017 for a 10MW battery storage facility just to the north-west of the application site but within the Rush Green complex.

2.0 **Relevant Planning Policy**

2.1 **North Hertfordshire District Local Plan No.2 with alterations**

Policy 2 - Green Belt
Policy 36 – Employment Provision
Policy 55 – Car Parking Standards

2.2 **National Planning Policy Framework**

Section 2 – Achieving sustainable development
Section 4 – Decision-making
Section 6 – Building a strong competitive economy
Section 8 – Promoting healthy and safe communities
Section 9 – Promoting sustainable transport
Section 12 – Achieving well designed places
Section 13 - Protecting Green Belt land
Section 14 – Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 – Conserving and enhancing the historic environment

2.3 **North Hertfordshire Draft Local Plan 2011-2031**

The policies of relevance in this instance are as follows:

Strategic Policies

SP1: Sustainable development in North Hertfordshire
SP5: Countryside and Green Belt
SP6: Sustainable transport
SP9: Design and sustainability
SP10: Healthy communities
SP11: Natural resources and sustainability
SP13: Historic environment

Development Management Policies

ETC2: Employment development outside Employment Areas

T1: Assessment of transport matters

T2: Parking

D1: Sustainable design

D3: Protecting living conditions

D4: Air quality

NE1: Landscape

NE7: Reducing flood risk

NE8: Sustainable drainage systems

NE9: Water quality and environment

NE10: Water Framework Directive and wastewater infrastructure

NE11: Contaminated land

HE1: Designated heritage assets

HE4: Archaeology

3.0 **Representations**

3.1 **Public Notice/ Local Residents**

Objections have been received from local residents, local interest groups and other parish councils and these can be found in full on the website. The following is a summary of issues raised:

- Inappropriate development in Green Belt;
- Site is not previously developed;
- Harm to the appearance of the Green Belt and reduction in openness;
- Visual impact;
- Environmental impact;
- Impact on air quality and the Stevenage Road Air Quality Management Area;
- Impact on human health due to vehicle emissions, dust etc;
- Impact on highway safety and the capacity of the highway network;
- Suitability of road for the type of traffic proposed;
- Impact on pedestrians and cyclists;
- HGV noise and vibration;
- Dust, noise and vibration from the plant;
- Potential land contamination issues;
- Potential damage to the highway;
- Harm to neighbour amenity;
- Impact on the water supply;
- Inappropriate location for such a plant;
- Impact on wildlife/ecology.

3.2 **Langley Parish Council**

Objection received and can be found on the website. The following is a summary of the issues raised:

- Highways safety and capacity concerns;
- Damage to the road;
- HGV emissions and dust;
- Impact on water supply;
- Harm to the rural area and the Green Belt.

3.3 **Letter from Bim Afolami MP**

The MP outlined his opposition to the construction of the plant on the basis that the proposed development would have an adverse impact on the safe operation of the highway, is unnecessary and not appropriate in the Green Belt. The MP concluded his letter by asking the Council to highlight the requirement of the plant. The requirement or otherwise of the proposed plant is not a matter that is able to be considered by the decision maker as our position with relation to the proposal is to consider its acceptability in line with relevant planning policy and guidance.

3.4 **Hertfordshire County Council Highways**

No objection subject to recommended conditions 8-17. Members to note that the Highways Authority have considered the cumulative effect of the existing and proposed development and have concluded that the proposal would not lead to a severe impact (see 4.2.1-4.3.1).

3.5 **Environmental Protection (contaminated land and air quality)**

No objection subject to recommended conditions regarding contamination and fleet emissions.

3.6 **Environment Agency**

No objection subject to recommended condition regarding surface water disposal.

3.7 **Environmental Health (noise and other nuisance)**

No objection subject to recommended condition regarding the operating hours of the proposed plant.

3.8 **Herts Ecology**

No objection subject to recommended conditions regarding ecological mitigation measures.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The application site is located on the northern part of the Rush Green Motors site which is located to the east side of the B656 (London Road). The site is located within the parish of Langley and the village of Langley is located a few hundred metres to the south of the application site. The site is located approximately 6km to the south of Hitchin and 2.5km to the west of Stevenage.

- 4.1.2 Rush Green Motors is noted on its website as being a 'commercial vehicle specialists' although a lawful development certificate granted by this Council in 2005 (05/00510/EUD) described the authorised use as follows:

“Storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers”

A number of former agricultural and portable office buildings are located on the site and appear to be used in association with the authorised use of the site.

- 4.1.3 The Rush Green Motors site extends a significant distance along the boundary of the B656 whilst the site also extends several hundred metres to the east. The site is bounded to the north-west by the Rush Green Airfield and to the north, north-east, and east by agricultural fields. Dyes Farm borders/is incorporated into the south-east of the site. Several residential properties are located within the frontage of the site.
- 4.1.4 The B656 London Road is primarily a 60mph speed-limit road that links the south-western edge of Hitchin with the northern edge of Codicote whilst providing access with the villages to the south/south-west. To the north the B655 joins up with the Three Moorhens Roundabout in Hitchin which then provides road links towards Stevenage, Letchworth, Luton and Bedford. To the south the B656 runs through the Codicote High Street before eventually discharging onto the Welwyn By-Pass Roundabout and provides road links to south and north junctions of the A1M, the B197 towards Knebworth and the A1000 towards Welwyn.
- 4.1.5 The Phase I Ecological Survey Report that has been submitted in support of the application confirms that the application site does not contain, adjoin or include any statutorily designated sites of ecological interest, such as Sites of Special Scientific Interest (SSSI), National Nature Reserves, Special Protection Areas (SPAs), Special Areas of Conservation (SACs) or other sites designated under UK or European Directives. The closest SSSI is the Knebworth Woods SSSI which is 1.5km from the site.
- 4.1.6 The Rush Green Airfield Local Wildlife Site (ref. 29/019) is located approximately 60m to the north-west of the application site. The LWS contains a wide diversity of habitats within a relatively small area including moderately species-rich neutral grassland, with a narrow strip of damp grassland with good species diversity along the eastern side associated with a winterbourne (which is derived from the piped small stream underlying the Site). In the SE corner of the LWS are 2 small areas with species-rich damp grassland, a pond and drainage ditch and in the SW corner is a small fenced off area of grassland, semi-improved in character with several grassland indicators. The LWS also includes hedgerow habitat and some areas of broad-leaved plantation woodland.

4.1.7 The application site extends across Flood Risk Zone (FRZ) 1 through to 3.

4.2 **Proposal**

4.2.1 Overview

Erection of concrete batching plant together with associated infrastructure and access.

4.2.2 What is a concrete batching plant?

Concrete batching is an industrial process which involves combining various ingredients like aggregates, sand, water, and cement to make ready-made concrete. The process would require raw materials to be imported onto the site before the final product is exported by road via truck-mixers. The operation of mixing the materials is largely a computerised operation. It is anticipated that the plant would produce approximately 30,000m³ of concrete annually.

4.2.3 Vehicular access

An existing, but not currently used, vehicular access point is proposed to be upgraded and used as the sole point of access for the concrete batching plant. Other existing vehicular access points will be retained and presumably used in association with the existing operations at Rush Green Motors.

4.2.4 Construction of the plant

- The site will need to be cleared before any preparatory works begin;
- A large sub-base/concrete surface to be laid along with drainage and surface water infrastructure;
- The concrete batching plant will arrive on site part-assembled and will be constructed on site;
- Site office is pre-fabricated and will be delivered to the site and installed in position;
- Aggregate storage bays to be delivered and installed;
- Remainder of infrastructure is delivered and installed.

4.2.5 The plant

The structures/buildings proposed as part of the concrete batching plant are as follows:

- Mixing plant with conveyor;
- Aggregate feed hoppers;
- Site office;
- Recycled water butt;
- Recycle bay/wedge pit/waste bay;
- Water tank;
- Batch cabin;
- GGBS (ground granulated blast furnace slag) station;
- OPC (Ordinary Portland Cement) station;
- Aggregate bays;
- Substation and storage.

4.2.6 Operations of the plant

- The importation and storage of aggregates, sand, cement, limestone fines and other raw materials via heavy good vehicles (HGV's) via the access road.
- The movement of those materials by loading shovel within the site.
- The production process for concrete, mortars and screeds.
- Ancillary welfare and sales offices, vehicle parking and the onward transfer of finished products from the Site via the access road and the wider highway network.

NB. More detail regarding the operations can be found in Chapter 3 of the Planning Application and Supporting Statement.

4.2.7 Vehicle movements

Across a 12 month period a daily average of 52 HGV movements (26 in/26 out) Monday to Friday and 26 HGV movements (13 in/ 13 out) Saturday are proposed to occur. On the basis that the plant would operate for 5.5 days per week for 48 weeks per year this would result in 13,728 HGV movements per year.

NB. Were the plant to operate for 51 weeks per year (taking into account of holiday periods and Sundays) the plant would attract a total of 14,443 HGV movements per year.

4.2.8 Hours of operation

Operating hours are proposed to be 0700-1900 Monday to Friday and 0700-1300 Saturday.

NB. See section 4.3.35 of my Committee Report which outlines that operating hours are to be restricted by condition to 0730-1900 Monday to Friday and 0730-1300 Saturday

4.2.9 Lighting

External lighting will be required. Details have not been submitted as part of this planning application and as such this matter is to be subject of a condition requiring full details to be submitted and agreed prior to the installation and use of any lighting.

4.3 **Key Issues**

4.3.1 The key issues for consideration are as follows:

- Whether the proposal would be inappropriate development in the Green Belt and whether any harm by reason of inappropriateness (if it is found to be so), and any other harm, would be clearly outweighed by other considerations.;
- The effect on the character and appearance of the area;
- The effect on the safe operation and capacity of the highway network.
- The effect on the living conditions of neighbouring properties.
- The effect on the environment with particular regard to air quality, contamination and flood risk.
- The effect on the ecological value of the area

--The effect on the historic environment.

4.3.2 Green Belt: Inappropriate development

Policy background

Paragraph 145 of the NPPF (the Framework) states that new buildings in the Green Belt are inappropriate development, with certain exceptions contained within paragraphs 145 and 146 of the Framework. Paragraph 143 states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Moreover, paragraph 144 states that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt is clearly outweighed. Policy 2 of the saved Local Plan states that development will be granted for proposals that are appropriate in Green Belt and which do not result in 'significant visual impact'. Emerging Policy SP5 largely defers to the provisions of the Framework.

4.3.3 *Previously developed land*

The first key issue to consider is whether the site is rightly regarded by the applicant as being 'previously developed'. The Framework defines 'previously developed land' as "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*"

4.3.4 A number of permanent structures are present within the Rush Green Motors site whilst a Lawful Development Certificate (LDC) was granted by this Council in 2005 that established the lawful use of the site for the '*storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers*'.

4.3.5 The circumstances of the site do not appear to have changed since the LDC was granted in 2005 and I am therefore satisfied that the site still operates under the terms of the LDC. Moreover, a number of permanent structures are present within the Rush Green Motors site together with a significant amount of hard-surfacing. To be clear, the key issue here with respect to this issue is the status of the land at determination and it is quite clear to me that the Rush Green site as a singular planning unit is, at the point of determination, previously developed in line with the definition in the Framework.

4.3.6 As the site is previously developed, paragraph 145 bullet-point 'g' of the Framework is activated and therefore the partial or complete redevelopment of the site would not be inappropriate development provided that the new development would not have a greater impact on the openness of the Green Belt than the existing development.

4.3.7 *The existing development*

The key issue for consideration is therefore whether the proposed development would have a greater impact on the openness on the Green Belt than the existing development. First of all it is important to establish the current situation on the site and therefore I can confirm that I observed the following when I visited:

--The site contained large numbers of scrap vehicles and vehicle parts spread out across almost the full extent of the site. Vehicles varied in size from small cars to large HGV's.

--Scrap vehicles and cars are typically piled on top of each other and I would estimate the height in places to be up to around 6-7m.

--A number of porta-cabins and buildings of a similar scale are situated within the site.

--A large pile of soil was observed and this has a height of approximately 6-7m.

--Numerous cranes are littered across the site and these have a height in excess of 8m.

--Metal palisade fencing has been erected around the boundary of the site.

4.3.8 *The proposed development*

The proposed development would include the full clearance of the site as defined by the red line on drawing number 17088-12 P4, the formation of a new vehicular access road and the erection of the several structures required to form the concrete batching plant. The first thing to note is that the footprint of the proposed development is less than the footprint of the existing development and would moreover present a much tidier arrangement. However, some of the proposed structures are arguably of a more permanent nature than the existing development and indeed several of the proposed structures would have a height of between approximately 6 and 8 metres. Moreover, it should be recognised that some aspects of the proposed development are much smaller than the existing development measuring no more than approximately 3m in height. I would therefore argue that, whilst some parts of the plant proposed may exceed the height of existing structures currently in position on the site, the overall development would not have a materially greater impact on the openness of the Green Belt than the existing development. Indeed, one could even go so far as to suggest that the proposed development would have a reduced impact on the openness of the Green Belt than the existing development.

4.3.9 Based on the above considerations it is my view that the proposed development would not have a materially greater impact on the openness of the Green Belt than the existing development. Thus it is my view that the proposed development would not be inappropriate development.

4.3.10 *Saved Policy 2*

Policy 2 of the Saved Local Plan states that permission will be granted for proposals that are 'appropriate' in the Green Belt and if 'significant visual impact' would not result. In line with the conclusions reached in paragraph 4.3.9 of this report, I consider that the proposal would not be inappropriate development and is thereby 'appropriate' for the purposes of applying Saved Policy 2. I will return to the matter of visual impact in more detail in a later section of this report.

4.3.11 *Emerging Plan*

The Emerging Plan has yet to be adopted but the Examination in Public (EiP) has been undertaken and the site is proposed to remain in the Green Belt. Whilst the Council is yet to receive the Inspector's Report and is not expected to therefore adopt the Plan until mid-2019, Policy SP5 is largely consistent with the aims of the Framework and therefore I consider that the proposal is not inappropriate development in accordance with the provisions of SP5 and the Framework.

4.3.12 *Green Belt conclusions*

It is my view that the proposed development would involve the partial redevelopment of previously developed land and that said development would not have a materially greater impact on the openness of the Green Belt than the existing development. Consequently the proposed development would not be inappropriate development and would accordingly comply with the provisions of Section 13 of the Framework, Saved Policy 2 and Emerging Policy SP5.

4.3.13 Visual impact

Policy background

The Framework (para.170) places value on protecting and enhancing valued landscapes and advises LPA's to recognise the intrinsic character and beauty of the countryside. Saved Policy 2 is a Green Belt policy which has already been discussed in this report. However, the Policy states that permission will only be granted where it is appropriate (which I have already addressed) and where significant visual impact would not result. Emerging Policy SP12 relates to 'Green infrastructure, biodiversity and landscape' with criterion 'c' stating that the Council will 'consider and respect landscape character and locally sensitive features'. Emerging Policy NE1 relates to 'Landscape' and expands on the strategic aims of Policy SP12 ultimately aiming to ensure that new development would respect the landscape character area in question and not harm the appearance of the immediate area.

4.3.14 *The Landscape and Visual Impact Assessment*

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) in support of their application. Paragraph 2.6 of the LVIA states that the LVIA should consider:

- i) Landscape effects i.e. the effects on the landscape as a resource; and*
- ii) Visual effects i.e. the effects on views and visual amenity.*

Paragraph 2.7 of the LVIA states that *“both landscape and visual effects are dependent upon the sensitivity of the landscape resource or visual receptors and the magnitude of impact.”*

4.3.15 The North Hertfordshire Landscape Assessment (NHLA) has analysed and allocated the district into Landscape Character Areas. The site is within Landscape Character Area (LCA) 214 ‘Langley Valley’. LCA 210 ‘Langley Scarp’ is to the west on the other side of the B656 with LCA 209 ‘Almshoe Plateau’ is located to the east and borders the edge of Stevenage.

4.3.16 I am not quite in agreement with paragraph 5.4.2 of the LVIA which I feel slightly misrepresents the conclusions of the NHLA. Overall LCA 214 is considered by the NHLA to be of ‘moderate sensitivity’ but considered to be of ‘moderate to high sensitivity in visual terms’. Openness is considered to be a particular aspect of value but the overall value of the LCA is diminished due to the lack of remoteness and general human influence. Overall the landscape is considered to be of ‘moderate low landscape value’ and I am not in disagreement with this conclusion.

4.3.17 The existing lawful use of the site undoubtedly has a negative impact on the landscape and this presumably feeds into the conclusion of the NHLA that the Langley Valley LCA has only a moderate low landscape value. However, as discussed in earlier sections of this report, the scrapyards are a lawfully established use and thus there is little prospect that the appearance of the site will change for the better. The proposed development would be contained within the existing development area and not extend further into the countryside. Moreover, a large part of the site will need to be cleared to enable the development thereby possibly having a positive impact on the landscape.

4.3.18 The Rush Green Motors site as a whole is large and has a significant impact on the landscape. However, the development site is itself only a relatively small section of the overall site and, in any case, due consideration must be given to the visual impact of the proposal in reference to the existing scale of development. I have identified several locations near to the site which the proposal may affect.

- Public Right of Way 4 is located south-east of the application site essentially cutting through the site indicating the boundary between Rush Green and Dyes Farm. View towards the application site from PROW4 would be long-range largely across the existing scrapyards. Accordingly, the proposal would have limited impact on PROW4.
- Public Right of Way 25 is located a significant distance beyond the northern boundary of the application site linking White Lane to the west with PROW4 discussed above. The application site is visible from several viewpoints along PROW25 but due to the distances involved the impact of the proposed development on PROW25 would be limited.

- The B656 is located closely adjacent to the front of the site and at this point has a 60mph speed limit. The plant itself would be located to the rear of the site and would therefore have limited impact from the road. At worst it would have a marginally greater impact than the existing development due to slight increase in height but this part of the site fairly well screened whilst the landscape value from the B656 is low at this point.

4.3.19 *Landscape - conclusions*

Overall, when considered against the existing situation, I would conclude that the proposed development would have a neutral impact on the landscape value of the area and would therefore be compliant with the Framework and Emerging Policies SP12 and NE1. The proposal would not have significant visual impact and thus I consider that the proposal would be compliant with Saved Policy 2.

4.3.20 Impact on the safe operation of the highway

Key issues

Due to the nature of the proposed development, the key issue in the consideration of the application is the impact that the movement of heavy goods vehicles (HGV's) would have on the safe operation of the highway network in terms of both the safety of the access and the impact on the safety and capacity of the wider highway network.

4.3.21 *Policy background*

Paragraph 108 of the Framework advises that, in assessing development proposals, a) opportunities to promote sustainable transport modes are taken up; b) safe and suitable access to the site can be created for all users; and c) any significant impacts on the transport network (capacity and congestion) or on highway safety can be mitigated to an acceptable degree.

4.3.22 Paragraph 109 of the Framework states that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*”

4.3.23 Emerging Policies SP6, T1 & T2 are largely consistent with the aims of the Framework ultimately all therefore requiring new development to, inter-alia, promote sustainability, have an acceptable impact on the capacity and safety of the network, and provide a satisfactory amount of car parking.

4.3.24 *Sustainable transport*

The application site is located in a fairly remote location with the closest settlement of Langley being classed by the Local Planning Authority in its Emerging Local Plan as a Category C village and thus the proposal is unlikely to attract significant sustainable transport benefits. That said, the Framework advises that ‘opportunities to promote sustainable transport modes’ should be taken up and I am not convinced that this development proposal twinned with its location would present any particular opportunities in this regard.

4.3.25 *Safe and suitable access*

The proposal would include improvements to an existing vehicular access that is currently not used. To clarify, the access is not currently used by the site owner but not due to any highways safety reasons as far as I am aware. The Highways Authority has commented on the proposal and considers that the improvements to the access would be acceptable in principle. The finer details of the proposed vehicular access are to be secured through several appropriately worded conditions and through a Section 278 Agreement that the applicant/developer would need to enter into with the Highways Authority. Accordingly, subject to the full agreement of the Highways Authority I am satisfied that the proposed improvements to the access would be acceptable in highway safety terms.

4.3.26 *Impact on the network (capacity and congestion)*

The proposal would involve an average of 54 HGV movements Monday-Friday 0730-1900 and an average of 26 HGV movements 0730-1300 on Saturdays thus equating to approximately 4/5 HGV movements per hour, per day.. The applicant anticipates that, due to market distribution and the location of the site, traffic associated with the development would likely be split equally between the northern and southern routes although clearly this will be dictated by demand.

4.3.27 The Highways Authority has considered the information submitted with the application including the Transport Assessment (TA) and considers that, subject to a number of recommended conditions, the number of additional HGV movements proposed by the development would be able to be safely accommodated by the local highway network with regard given to the cumulative impacts.

4.3.28 The majority of the local concern with relation to the impact that the proposed development would have on the capacity and congestion of the highway network centres on three particular areas: 1) the Hitchin Hill roundabout/Park Way/Stevenage Road in Hitchin; 2) Codicote High Street/B656 through Welwyn towards the A1 (M); and 3) through Langley village. The Highways Authority accept that the demands on the network are greater at the rush-hour periods which have been identified as being 0730-0900 and 1630-1800 Monday-Friday. Accordingly, it is recommended that the number of the HGV movements allowed between these two times is limited to 14 daily. This condition is deemed to be sufficient to ensure that the impact on the network at the busiest times of the day would be kept to an acceptable level. Overall the Highways Authority has considered that the additional vehicle movements proposed to be generated in association with the proposed development would not lead to severe impacts on the network.

4.3.29 *Car parking*

The proposed development would have ample parking provision for all vehicles proposed to use the site.

4.3.30 *Highway impacts - conclusions*

As I reach my conclusion on this issue I am minded to keep in mind paragraph 109 of the Framework which advises the decision maker that permission should be only be refused for development that has a severe impact on the transport network. Each issue has been considered in turn by the Highways Authority and ultimately it is considered that, subject to the conditions set out below, the proposed development would be acceptable in highway safety terms and would not have a significant impact on the capacity or congestion of the local highway network. Accordingly, the proposal would not have a severe impact on the highway network and therefore I do not advise that planning permission is refused on this basis.

4.3.31 Impact on neighbouring properties

Residential properties nearby to the application site are few in number. However, a property called 'Trees' has been noted as likely being affected most by the proposal development; albeit it is located approximately 250m from the application site. 'Trees' fronts the B656 with the Rush Green Motors site wrapping around the rear and flank boundaries of the curtilage of the property.

4.3.32 Due to the nature of the proposed development, I have asked the Senior Environmental Health Officer to consider the proposal together with the Noise Assessment Report by WBM Acoustic Consultants dated 9th July 2018 (ref 4759). It should be noted that the EHO considers that the criteria and methodology is appropriate and therefore the basis of the assessment is considered to be sound.

4.3.33 The Noise Assessment Report predicts that the noise level experienced at 'Trees' will be 1dB (A) above the existing background noise levels due to the operations of the proposed development. This is not excessive but it is some way short of the Council's requirement of achieving at least 5dB (A) below the existing background noise levels. However, factoring the authorised use of the main site and the limited exceedance, it is not considered that the proposed development would give rise to such significant noise impacts as to materially affect the living conditions of current or future occupants of 'Trees'.

4.3.34 Consideration has been given to ways of potentially mitigating the limited noise exceedance that has been identified. However, an acoustic fence is the only realistic way in which this issue could be tackled and it is not considered that the erection of an acoustic fence along the boundary of the application site would provide any more than a modest reduction in the noise levels experienced at 'Trees'. Accordingly, this possibility has been discounted. However, it has been recommended that the operating hours of the plant are restricted slightly to 0730hrs-1900hrs Monday to Friday and 0730hrs-1300hrs Saturday.

4.3.35 Based on the specialist advice received from the Senior Environmental Health Officer and my own professional consideration the proposed development would not cause material harm to the living conditions of 'Trees'. Other neighbouring properties would not be significantly affected by the proposed development.

4.3.36 Environmental protection: noise

As part of his considerations, the Senior Environmental Health Officer requested that the noise consultant's model noise levels from HGV's entering and leaving the site. This work has been undertaken and is contained within the Noise Technical Note submitted 15/10/2018. It is considered that this demonstrates that HGV noise will not cause a significant noise nuisance.

4.3.37 Environmental protection: dust

Dust is another matter for which I have asked for specialist input from the Senior Environmental Health Officer. The advice I have received is that the nearest neighbouring property is a sufficient distance away from the source to ensure that no harm would occur as a result of any dust in association with the operation of the site. Moreover, an Environmental Permit will be required for this type of operation under the Environmental Permitting Regulations 2010 and therefore matters relating to dust are best dealt with under this Legislation.

4.3.38 Environmental protection: contaminated land

Land contamination issues have been identified within the GCC Phase I and II environmental risk assessment reports submitted by the applicant. However, it is considered that the issues and recommendations that have been identified are able to be overcome through the submission of a Site Investigation Report (Phase II environmental risk assessment), Remediation Method Statement and Verification Report if/as required.

4.3.39 In accordance with the above, I am satisfied that land contamination issues are able to be appropriately addressed prior to the commencement of the proposed development and thus the proposal is compliant with Section 15 of the Framework and Emerging Policies SP11 and NE11.

4.3.40 Environmental protection: air quality

The application site is not in or closely adjacent to an Air Quality Management Area (AQMA). However, it is recognised that the proposed development could have an impact on the Hitchin Hill Roundabout at the west end of the Stevenage Road AQMA in Hitchin. Moreover, it is recognised that, whilst unlikely, one should not discount the possibility that there are occasions whereby all HGV movements travel north along the B656 and thus potentially affect the AQMA. Accordingly, the applicant has submitted an Air Quality Assessment (AQA) authored by WYG which models a number of different scenarios in order to predict the likely impact on the AQMA.

4.3.41 The Air Quality Assessment concludes that any impact from the development's road traffic is predicted to be negligible and to result in concentrations of air pollutants at the receptors that are lower than the concentrations that were measured in 2016. The Environmental Protection Officer (EPO) has considered the information submitted in the AQA and is in agreement with its findings. However, the air quality assessment does predict an air pollution contribution from the traffic generated by the proposed development and therefore, even though the scale of impact of the emissions on the air pollutant concentrations at receptors within the existing AQMA are negligible, the development is nonetheless failing to contribute

towards compliance with the Air Quality Objective for which the AQMA was designated. Therefore, the opportunity to mitigate the impacts of the development should be taken, with guidance on the type of mitigation to be used taken from the air quality management plan for that AQMA.

4.3.42 In light of the above, a condition is recommended that requires the submission of a Fleet Emission Improvement Strategy which should address the following points:

- . Establishment of current baseline of the operator's HGV fleet and an understanding of the HGV fleets of the operator's suppliers and customers
- . Means of increasing the proportion of the operator's heavy goods vehicle fleet that comply with Euro 5 and Euro 6 over an agreed timescale,
- . Approach to influencing the make-up of the HGV fleet of the operators suppliers and customers
- . Annual reporting on the progress with the implementation of this Strategy.

The condition is considered to off-set the negligible impact that is predicted to occur and ensure that the proposed development would not cause additional harm to the Stevenage Road AQMA. I consider that the condition would result in mitigation measures which are both reasonable and proportionate given the limited scale of the predicted impact.

4.3.43 Environmental protection: flood risk

The application site has been identified as being at risk of flooding and the Environment Agency agree with the methodology used by the consultants appointed by the applicant to determine the validity of the flood zone and are satisfied that the proposed development would not reduce the capacity of the floodplain in this area. Accordingly the proposal would be compliant with Section 14 of the Framework and Emerging Policies SP11 and NE7.

4.3.44 Environmental protection: surface water

The Environment Agency believes that the site investigation and risk assessment are sufficient to preclude any further assessment of the site. However, as the applicant is yet to conclude on the discharge option for surface water drainage, the EA recommend that a scheme for surface water disposal is submitted to and approved by the Local Planning Authority prior to the commencement of the development. I am satisfied that the proposed condition would ensure that surface water is able to be disposed of in an acceptable manner and thus the proposal is compliant with Section 15 of the Framework and Emerging Policies SP11 and NE8.

4.3.45 Ecology

The application site is a brownfield site occupied by industrial / commercial uses and there is limited ecological value associated with it. However, the Rush Green Airfield is located approximately 78m north-west of the site and Herts Ecology has raised some concerns regarding the impact that dust dispersion in association with the operations of the plant could have. However, mitigation measures that have been suggested such as appropriate buffering/ fencing of the small stream in the northern corner and tree root protection area; timing of site clearance to avoid

impact to nesting birds; production of a CEMP to reduce air and ground pollution impacts, and the erection of a 2m high hedge and fence with dense membrane to add protection to the north-western boundary. These mitigation measures are all considered to be appropriate and necessary to ensure that the proposal would not cause harm to the LWS and I have recommended conditions accordingly.

4.3.46 Historic environment

The application site is located several kilometres from designated or non-designated heritage assets and there would not be any inter-visibility between the site and said assets. Accordingly, the proposed development would not have an impact on the setting or significance of any designated historic assets.

4.3.47 Land use

Policy background

The Framework is supportive of planning helping to create the conditions in which businesses can invest, expand and adapt (para.80) and encourages the growth and expansion of all types of businesses in rural areas (para. 83). In essence I would regard the Framework of being supportive of proposals which support economic growth. Saved Policy 36 (Employment Provision) states that, outside of Employment Areas, planning permission will be granted for proposals for development to meet the needs of the available labour supply and changes in the local economy where it is appropriate in land use, highway, and settlement character and amenity terms. Emerging Policy SP3 (Employment) states the Council will support B-class uses in appropriate locations outside of designated employment areas with Emerging Policy ETC2 expanding on this point stating that employment uses outside of allocated Employment Areas will be granted where they are located in sustainable locations, are appropriate to the area in terms of their size, scale, function, catchment area and historic/architectural character, and have no significant adverse impact on living conditions.

4.3.48 *Saved Policy 36*

The proposed development would appear to meet the needs of the available labour supply and the local economy due to the fact that the applicant presumably deems the proposal to be commercially viable. Moreover, due consideration has been given to the proposal and it is considered that the proposal would be appropriate in land use, highway, and settlement character and amenity terms. Accordingly, the proposed development is considered to be compliant with Saved Policy 36.

4.3.49 *Emerging Policies*

Policy SP3 is broadly supportive of B use classes outside of designated employment areas in appropriate locations. As discussed in the above paragraph, it is considered that the proposal would be appropriate in land use, highway, and settlement character and amenity terms and would therefore be compliant with Emerging Policy ETC2.

4.3.50 *Land use – conclusions*

It is considered that the proposed development would be acceptable in land use terms and would therefore be compliant with Section 6 of the Framework, Saved Policy 36 and Emerging Policies SP3 and ETC2.

4.3.51 Environmental Impact Assessment

The proposed development is neither Schedule 1 development nor does it exceed the threshold set out in Part 5(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Accordingly, there is no requirement for the development to be screened by the Local Planning Authority and an Environmental Impact Assessment is not automatically required.

4.3.52 However, Paragraph 18 (ref ID: 4-018-20170728) of the Planning Practice Guidance states that *“it should not be assumed that developments above the indicative thresholds should always be subject to assessment, or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits.”*

4.3.53 Firstly, the application site is not located in an environmentally sensitive location in accordance with the 2017 Regulations. Secondly, based on the consultation responses I have received from Environmental Health and the Environment Agency I do not consider that the proposed development would give rise to significant effects and thus I am satisfied that an Environmental Impact Assessment is not required.

4.4 **Conclusion**

4.4.1 The proposed development would not be inappropriate development in the Green Belt and the proposal would be compliant with Section 13 of the Framework, Saved Policy 2 and Emerging Policy SP5. The proposal would be acceptable in broad land use terms.

4.4.2 No objections have been raised by the Highways Authority and thus it is considered that the proposal would have an acceptable impact on the safe operation and capacity of the local road network subject to a number of appropriately-worded conditions. Moreover, technical matters related to noise, air quality, dust, contamination, flood risk et.al. have all been considered and there are no objections, again subject to a number of suitably-worded conditions.

4.4.3 Ultimately there are no sustainable reasons to maintain any objection to the proposed development and accordingly my recommendation is that planning permission is **GRANTED** subject to referral to the Secretary of State for Housing.

4.5 **Alternative options**

4.5.1 Not applicable.

4.6 **Pre commencement conditions**

4.6.1 All agreed.

5.0 **Recommendation**

5.1 Planning permission is resolved to be **GRANTED** subject to referral to the Secretary of State for Housing.

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. (a) No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;

(ii) The results from the application of an appropriate risk assessment methodology.

(b) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (a), above; has been submitted to and approved by the Local Planning Authority.

(c) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

(d) Any contamination, other than that reported by virtue of condition (a) encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters.

4. Development shall not begin until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with the National Planning Policy Framework (NPPF), paragraphs 170, 178, 180 and The Environment Agency's Approach to Groundwater Protection.

5. Prior to the first use of the concrete batching plant hereby permitted, details of a Fleet Emission Improvement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures within the Fleet Emission Improvement Strategy shall be implemented within an agreed timetable set out in the Strategy, unless otherwise agreed in writing by the Local Planning Authority. As a minimum, the following matters should be addressed in the Strategy:
 - o Establishment of current baseline of the operator's HGV fleet and an understanding of the HGV fleets of the operator's suppliers and customers
 - o Means of increasing the proportion of the operator's heavy goods vehicle fleet that comply with Euro 5 and Euro 6 over an agreed timescale,
 - o Approach to influencing the make-up of the HGV fleet of the operators suppliers and customers
 - o Annual reporting on the progress with the implementation of this Strategy

Reason: In the interests of promoting sustainable transport and minimising the impact on local air quality

6. The site shall not be artificially illuminated except during the permitted hours of working and no lighting fitment shall be installed or at any time operated on the site from which the source of light is directed towards a public highway or nearby dwellings. Full details (including specification, drawings and location) of any external lighting proposed to be installed shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such equipment.

Reason: In the interests of the safe operation of the highway and to protect the amenities of the area.

7. No operations authorised or required under this permission shall take place except between the hours of 0730hrs to 1900hrs Mondays to Fridays inclusive and 0730hrs to 1300hrs on Saturdays. No working, including the maintenance of vehicles, plant and machinery shall take place on a Sunday or Public Holiday.

Reason: To protect residential amenity.

8. The development hereby permitted shall not commence until the proposed access has been constructed to base course construction for the first 12 metres and the join to the existing carriageway has been constructed to the current specification of Hertfordshire County Council and to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety, amenity and free and safe flow of traffic.

9. The development hereby permitted shall not commence until the proposed access has been widened to 7.3 metres wide and the kerb radii shall be 10 metres to the current specification of Hertfordshire County Council and to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety, amenity and free and safe flow of traffic.

10. The gradient of the access shall not be steeper than 1 in 20 for the first 12 metres from the edge of the carriageway.

Reason: To ensure a vehicle is approximately level before being driven off and on to the highway.

11. Prior to commencement of the development as defined on Proposed Site Plan SK01, detailed drawings of all highway works shall be submitted and approved in writing by the Highway Authority.

Reason: To ensure that all work undertaken on the public highway is constructed to acceptable standard.

12. Before the access is first brought into use, as defined on Proposed Site Plan SK01 revision P1, vehicle to vehicle visibility splays of 2.4 metres by 215 metres to both directions shall be provided and permanently maintained. Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

Reason: To provide adequate visibility for drivers entering and leaving the site.

13. The development hereby permitted shall not commence until details are submitted showing an appropriate turning area for use by vehicles likely to enter turn around and egress the site in forward gear the turning facility shall thereafter be kept free from obstruction and available at all times and shall therefore be retained as provided until completion of the works.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians and disabled people.

14. There shall be no more than 52 Heavy Goods Vehicle (HGV) movements entering or leaving the site for any purpose per day Monday to Friday when taken as a daily average over a calendar year and no more than 14 of these shall occur between the hours of 07:30am and 09:00am and no more than 14 between the hours of 16:30pm and 18:00pm Monday to Friday. There shall be no more than 26 HGV movements entering or leaving the site for any purpose per day on Saturdays when taken as an average over one calendar year. A record shall be kept of all HGV movements referred to in this condition by listing the vehicle registration of all HGV's entering and leaving the site and the record shall be kept at the site available for inspection on request during permitted working hours. For the purpose of this permission a HGV is defined as any vehicle over 7.5 tonnes.

Reason: In the interests of highway safety and amenity.

15. Construction of the approved development shall not commence until a Construction Traffic Management Plan has been submitted and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include construction vehicle numbers/routing such as prohibition of construction traffic being routed through any of the country lanes in the area and shall be carried out as approved.

Reason: In the interests of highway safety, amenity and free and safe flow of traffic.

16. Prior to the commencement of development a Construction Method Statement shall be submitted and approved in writing by the local planning authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Statement.

The Construction Method Statement shall address the following matters:

- a. Phasing plan for the work involving the new access
- b. Operation times for construction vehicles.
- c. Construction and storage compounds (including areas designated for car parking).
- d. Siting and details of wheel washing facilities.
- e. Cable trenches.
- f. Foundation works.
- g. Substation/control building.
- h. Cleaning of site entrance and the adjacent public highways.

i. Disposal of surplus materials.

Reason: To minimise the impact of construction vehicles and to maintain the amenity of the local area.

17. Prior to the commencement of the development hereby approved details of wheel washing facilities for construction traffic connected with the development hereby permitted shall be submitted to and approved by the Local Planning Authority and shall be installed all before the development is first commenced, and once installed such facilities shall be used to prevent mud and other debris being deposited on the highway during the construction of and operation of the development hereby permitted.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any amendment or re-enactment thereof, no buildings, moveable structures, works, plant or machinery, required temporarily in connection with or for the duration of the development hereby permitted shall be provided on the land without the prior written consent of the Local Planning Authority.

Reason: In the interests of the character and amenity of the area.

19. Prior to the first operation/use of the development hereby permitted, the ecological mitigation measures proposed in Section 4.2 of the Phase 1 Ecological Survey Report May 2018 authored by Susan Deakin shall be implemented on site. The stipulated mitigation measures will be maintained in perpetuity.

Reason: To ensure that the development would not cause harm to the value of the Rush Green Airfield Local Wildlife Site.

20. Prior to the first operation/use of the development hereby permitted full details of the 2m dense-mesh fence proposed for the north-western boundary of Rush Green Motors, and the native-species hedgerow proposed for the inner south-eastern boundary of Rush Green Airfield Local Wildlife Site, shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first operation/use of the development hereby permitted and maintained in perpetuity.

Reason: To ensure that the development would not cause harm to the value of the Rush Green Airfield Local Wildlife Site.

21. A copy of this decision with approved plans and any approved documents shall be kept at the site office at all times and the terms and conditions of them shall be made known to supervising staff on site.

Reason: To ensure that staff are aware of the terms of this consent.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

1) Construction standards for works within the highway:

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

2) Internal Road:

It is advisable that the internal road should be designed and built to adoptable standards.

3) Condition Survey:

Prior to commencement of the development the applicant is advised to contact the North Herts Highways Network Team [NM.North@hertfordshire.gov.uk] to arrange a site visit to agree a condition survey of the approach of the highway leading to construction access likely to be used for delivery vehicles to the development. Under the provisions of Section 59 of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic associated with the development considering the structural stability of the carriageway. The County Council may require an Officer presence during movements of larger loads, or videoing of the movements may be considered.

4) S278 Requirements:

The requirement as part of the offsite s278 works includes the widening of the existing access and reconfiguration of the radii kerbs.

5) Construction Code of Practice:

During the construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

6) Construction Hours:

During the construction phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-14:00hrs and Sundays and Bank Holidays: no work at any time.

7) Local Authority Pollution Prevention Control - Environmental Permitting Regulations (EPR) 2010:

The proposed development will be a Part B process pursuant to the Environmental Permitting Regulations 2010, meeting the description in Section 3.1B(b) of Part 2 to Schedule 1 of the EPR 2010 namely the blending, packing, loading, unloading and use of bulk cement.

As such the operator must apply for a Part B Permit from either the NHDC Environmental Protection and Housing Team or the Environment Agency (EA) and have that application permitted before being able to operate regardless of any planning permission that may be granted.

As a result of the application site already holding a Waste Management Licence, which is permitted and enforced by the Environment Agency (EA) it is possible for the intended operator of the activity to request that the site as a whole, including the cement batching activity, is regulated by the EA. However, it should be recognised that the likelihood of EA regulation is considered low primarily because the cement batching activity does not appear to be linked to the waste management aspects of the existing operations on the wider site.