



To: Members of the Planning & Regulation Committee

***Notice of a Meeting of the Planning & Regulation
Committee***

Monday, 5 September 2016 at 2.00 pm

Committee Rooms 1 and 2, County Hall, New Road, Oxford

A handwritten signature in black ink that reads "PG Clark".

Peter G. Clark
County Director

August 2016

Contact Officer: **Graham Warrington**
Tel: 07393 001211; E-Mail:
graham.warrington@oxfordshire.gov.uk

Members are asked to contact the case officers in advance of the committee meeting if they have any issues/questions of a technical nature on any agenda item. This will enable officers to carry out any necessary research and provide members with an informed response.

Membership

Chairman – Councillor Mrs Catherine Fulljames
Deputy Chairman - Councillor Neil Owen

Councillors

Lynda Atkins
David Bartholomew
Mark Cherry
Patrick Greene

Bob Johnston
Stewart Lilly
James Mills
Glynis Phillips

Anne Purse
G.A. Reynolds
John Sanders

Notes:

- ***A site visits is required for Item7 (Appleford Sidings)***
- ***Date of next meeting: 17 October 2016***

Declarations of Interest

The duty to declare.....

Under the Localism Act 2011 it is a criminal offence to

- (a) fail to register a disclosable pecuniary interest within 28 days of election or co-option (or re-election or re-appointment), or
- (b) provide false or misleading information on registration, or
- (c) participate in discussion or voting in a meeting on a matter in which the member or co-opted member has a disclosable pecuniary interest.

Whose Interests must be included?

The Act provides that the interests which must be notified are those of a member or co-opted member of the authority, **or**

- those of a spouse or civil partner of the member or co-opted member;
- those of a person with whom the member or co-opted member is living as husband/wife
- those of a person with whom the member or co-opted member is living as if they were civil partners.

(in each case where the member or co-opted member is aware that the other person has the interest).

What if I remember that I have a Disclosable Pecuniary Interest during the Meeting?.

The Code requires that, at a meeting, where a member or co-opted member has a disclosable interest (of which they are aware) in any matter being considered, they disclose that interest to the meeting. The Council will continue to include an appropriate item on agendas for all meetings, to facilitate this.

Although not explicitly required by the legislation or by the code, it is recommended that in the interests of transparency and for the benefit of all in attendance at the meeting (including members of the public) the nature as well as the existence of the interest is disclosed.

A member or co-opted member who has disclosed a pecuniary interest at a meeting must not participate (or participate further) in any discussion of the matter; and must not participate in any vote or further vote taken; and must withdraw from the room.

Members are asked to continue to pay regard to the following provisions in the code that *"You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself"* or *"You must not place yourself in situations where your honesty and integrity may be questioned....."*

Please seek advice from the Monitoring Officer prior to the meeting should you have any doubt about your approach.

List of Disclosable Pecuniary Interests:

Employment (includes *"any employment, office, trade, profession or vocation carried on for profit or gain"*.), **Sponsorship, Contracts, Land, Licences, Corporate Tenancies, Securities.**

For a full list of Disclosable Pecuniary Interests and further Guidance on this matter please see the Guide to the New Code of Conduct and Register of Interests at Members' conduct guidelines. <http://intranet.oxfordshire.gov.uk/wps/wcm/connect/occ/Insite/Elected+members/> or contact Glenn Watson on (01865) 815270 or glenn.watson@oxfordshire.gov.uk for a hard copy of the document.

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

AGENDA

1. **Apologies for Absence and Temporary Appointments**
2. **Declarations of Interest - see guidance note opposite**
3. **Minutes** (Pages 1 - 10)

To approve the minutes of the meeting held on 11 July 2016 (**PN3**) and to receive information arising from them.

4. **Petitions and Public Address**
5. **Chairman's Updates**
6. **New Roads and Street Works Act 1991 Section 50 Licence for Headington Heat Pipe application.** (Pages 11 - 50)

Report by the Interim Deputy Director for Environment & Economy (Commercial) (**PN6**).

As part of a significant project to reduce energy costs the Oxford University Hospital Trust (OUHT) are proposing to upgrade their heating and hot water systems at the John Radcliffe and Churchill Hospitals. This innovative scheme seeks to transfer heating via new pipelines along the public highway connecting the two sites. In June this year the County Council received an application from Vital Energi, working for OUHT, for installation of 150 mm diameter district heating pre-insulated pipes on roads between and including the John Radcliffe Hospital and the Churchill Hospital. The application information is set out in the report and its annexes.

The specific route of the proposed pipe is approximately 1.5 Km long and runs along (North to South) Woodlands Road, Sandfield Road, A420 London Road, Latimer Road, All Saints Road, Lime Walk, Old Road, and Churchill Drive.

A planning application for these works has been submitted to the Local Planning Authority (Oxford City Council) and this is currently programmed to be considered on the 7th September 2016. The result of the City's Planning Committee decision, or any relevant conditions imposed, will not be known before this Committee. However, recommendations of the relevant report will be reported orally at the meeting.

The County Council has recently changed its process for approval of Section 50 Licences for installation of apparatus that will have a significant impact on the transport network. Whilst statutory undertakers have a legal right to implement plant in the public highway, non-statutory undertakers are legally required to obtain authorisation from the Street Authority (for Oxfordshire this is the County Council). Approval to grant the Section 50 Licence for this scale of works is now to be determined by the Planning and

Regulation Committee.

It is RECOMMENDED that a New Roads and Street Works Act Section 50 Licence, subject to the proposed Conditions and Reasons (i) to (v) as detailed in para 26 and in Annex 8 to the report, be granted to the applicant, Vital Energi, for the street works related to installation of a district heating pipe as described in the application made and details thereof attached in Annexes 1-6 to the report.

- 7. The continuation of the development permitted by SUT/APF/616/7 (the modification and installation of new rail sidings) without complying with condition 7 (to allow trains to be unloaded up to 2200 hours Monday through Friday) at The Portway, Appleford Sidings, Appleford, Oxfordshire, OX14 4PJ - Application No. MW.0025/16 (Pages 51 - 62)**

Report by the Acting Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) (**PN7**).

This is an application to amend the conditions on the consent for rail sidings at Sutton Courtenay to allow the unloading of trains until 10pm rather than 6pm Mondays to Fridays. There has been an objection from the Environmental Health Officer and three local residents, due to the potential noise impacts. Sutton Courtenay Parish Council and Appleford Parish Council have also objected due to potential noise nuisance. There has also been an objection from the Ecologist Planner as no information has been provided about the impact on ecology.

The report assesses the proposals against the relevant planning policy and sets out a recommendation on whether permission should be granted.

It is RECOMMENDED that planning permission for application MW.0025/16 be refused for the following reasons:

- a) The unloading of trains after 6.00 pm in the evening would cause noise impact which is likely to represent a significant loss of amenity for local residents, contrary to OMWLP policy PE18, VLP policy DC9 and draft OMWCS policy C5.***
- b) It has not been demonstrated that the impacts of the extended hours on wildlife would not cause significant harm to biodiversity, contrary to the NPPF paragraph 118 and VLP 2031 Core Policy 46.***

8. Lorry Routeing Protocol (Pages 63 - 66)

Report by the Acting Director for Environment & Economy (Strategy & Infrastructure Planning) (**PN8**).

This report proposes the adoption of a lorry routeing protocol further to minute 17/16 of the meeting of County Council on 5 April 2016.

It is RECOMMENDED that the Lorry Routeing Protocol set out in Annex 1 to the report PN8 be adopted.

9. Relevant Development Plan and other Policies (Pages 67 - 72)

Paper by the Acting Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) (**PN9**)

The paper sets out policies in relation to Item 7 and should be regarded as an Annex to that report.

Pre-Meeting Briefing

There will be a pre-meeting briefing at County Hall on **Monday 5 September 2016** at **12.00 midday** for the Chairman, Deputy Chairman and Opposition Group Spokesman.

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PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 11 July 2016 commencing at 2.00 pm and finishing at 3.30 pm

Present:

Voting Members: Councillor Neil Owen – in the Chair

Councillor Lynda Atkins
Councillor David Bartholomew
Councillor Mark Cherry
Councillor Patrick Greene
Councillor Bob Johnston
Councillor Stewart Lilly
Councillor Charles Mathew (in place of Councillor Mrs Fulljames)
Councillor James F. Mills
Councillor Glynis Phillips
Councillor Anne Purse
Councillor G.A. Reynolds
Councillor John Sanders

Other Members in Attendance: Councillor Janet Godden (for Agenda Item 8)

Officers:

Whole of meeting G. Warrington and D. Mytton (Law & Governance); C. Kenneford and D. Periam (Environment & Economy)

Part of meeting

Agenda Item	Officer Attending
6 & 7.	M. Case (Environment & Economy)
7	C. Rossington (Environment & Economy)
8	K. Broughton (Environment & Economy)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, together with a schedule of addenda tabled at the meeting and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda, reports and schedule, copies of which are attached to the signed Minutes.

23/16 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for absence</i>	<i>Temporary Appointment</i>
Councillor Mrs Fulljames	Councillor Charles Mathew

24/16 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE

(Agenda No. 2)

<i>Councillor</i>	<i>Interest</i>
Neil Owen	<p><i>Item 7 – Castle Barn Quarry, Sarsden – Application No MW.0071/16</i></p> <p>Member of West Oxfordshire District Council Planning Committee. He advised that as he had not expressed an opinion with regard to the application in that capacity he intended to participate in any discussion and decision.</p>
James Mills	<p>Member of West Oxfordshire District Council Planning Committee. He advised that as he had not expressed an opinion with regard to the application in that capacity he intended to participate in the discussion and decision.</p>
Mark Cherry	<p>He advised that in early 2000 he had worked at the Great Tew Estate which was operated by the applicant for this application. That was no longer the case and he considered that his ability to participate impartially any discussion or decision voting on this application had not been compromised.</p>

25/16 MINUTES
(Agenda No. 3)

The Minutes of the meeting held on 23 May 2016 were approved and signed.

26/16 PETITIONS AND PUBLIC ADDRESS
(Agenda No. 4)

<i>Name</i>	<i>Speaker</i>
Steve Bowley, Agent for Applicant	Item 6 – Shipton-on-Cherwell Quarry – Application No. MW.0046/16
Nicholas Johnston, Applicant	Item 7 – Castle barn Quarry, Sarsden – Application No. MW.007/16
Ian Carr, Business Manager, Matthew Arnold School Councillor Janet Godden (Local Member))) 8. Matthew Arnold School -) Application No R3.0023/16)

27/16 CHAIRMAN'S UPDATES
(Agenda No. 5)

Planning application no: MW.0078/15 - Proposed extension of ironstone extraction, revocation of existing consented mineral extraction, export of clay, construction of temporary and permanent landforms, retention of an existing overburden store, relocation of consented stone saw shed, replacement quarry, farm and estate office building, erection of a new shoot store and multi-purpose building.

On 23 May 2016 the Planning & Regulation Committee had granted permission for this development which had included an extension to the existing Great Tew Ironstone Quarry. That permission had been subject to securing a Section 106 agreement preventing the working of mineral permitted under the “clay bank” together with a 20 year long-term management plan. Under that agreement it had been intended that a geological feature showing an exposed rock face should be retained with public access by appointment. Unfortunately, that had been omitted from the proposed working and restoration scheme and not realised at the time of the committee meeting. However, a minor correction has since been made to four plans

reinstating that small area and these have been submitted as amendments to the application to ensure this obligation is carried forward into the new agreement.

The original application did have an Environmental Impact Assessment attached and as it had been felt that the creation and retention of the geological exposure did not have any additional environmental effects which would require further assessment officers were suggesting with the Committee's approval that the new permission could be issued with the amended plans showing the geological exposure once the S.106 Agreement had been completed. If not then the Committee had the option of receiving a full updated report at its next meeting in September.

Officers had concluded that as there was a resolution to approve the application and given the minor nature of this change, which was beneficial it would in their view be extremely difficult for anyone to justify seeking to overturn the decision on the basis of this minor change. Therefore, they had requested that the Committee confirm issue of the planning permission with the amended plans included as part of the approved documents.

On a motion by Councillor Lilly, seconded by Councillor Johnston the Committee agreed unanimously that the planning permission be issued with the amended plans.

Barford Road Farm update on permission and S278 agreement.

Officers advised that it was now possible to grant the planning permission for Barford Road Farm in advance of the Section 278 agreement being granted. This would enable planning conditions on all other matters to be enforced while still requiring the highway works.

Noted.

- 28/16 CONTINUATION OF DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 40 (AFTERCARE), AND CONDITION 51 (RESTORATION) OF PLANNING PERMISSION 11/01402/CM (CONTINUATION OF DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 6 (IMPORTATION OF WASTE BY ROAD) AND WITH THE VARIANCE OF CONDITIONS 1 (TIME LIMITS) AND 7 (VOLUME OF WASTE IMPORTED) OF PLANNING PERMISSION 10/00360/CM DATED 17 JUNE 2010 FOR EXTRACTION OF LIMESTONE AND RESTORATION OF THE SITE BY INFILLING FOR COMMERCIAL, HABITAT CREATION AND AMENITY USE) IN ORDER TO DEFER SUBMISSION OF RESTORATION AND AFTERCARE DETAILS FOR AREA A (2 YEARS) AREAS B-D (5 YEARS) AT SHIPTON ON CHERWELL QUARRY, SHIPTON-ON-CHERWELL. - APPLICATION NO. MW.0046/16**
(Agenda No. 6)

The Committee considered (PN6) an application to remove and modify planning conditions of an existing consent for development in order to amend the aftercare and restoration conditions.

Having presented the report Mr Case and other officers responded to questions from:

Councillor Phillips – Mr Case advised that conditions relating to the car storage operation were not being amended. Mr Broughton further confirmed that originally the intention had been to bring cars in by rail but as the site was not currently rail connected and cars had been brought in and out by lorry. Those movements would not increase.

Councillor Bartholomew – permission to work material beyond 2017 would require a further application.

Councillor Lilly – Mr Periam advised that anything which affected restoration of a mineral site made it a county planning matter. Mr Case confirmed that the conditions now proposed retained all the details of existing conditions.

Councillor Sanders – Mr Case advised that car storage was permitted development as part of the interim restoration phase but was not happening yet. He was unable to confirm what the future status of European Protected Species legislation would be following the Brexit vote but could confirm that the reason for delay had been because of the need for further discussion regarding a reptile mitigation scheme and restoration management plan. Mr Periam explained the term geological window.

Councillor Phillips – there was provision in the legal agreement to commission a traffic survey.

Councillor Mathew expressed concern regarding the constant need to regularly review conditions attached to planning permissions. It seemed to him to always be for the benefit and interests of applicants alone and although officers had explained that the concerns of the parish council and other objectors in this particular case were not relevant to this application he disagreed on principle.

Councillor Lilly considered there was something of a paradox when considering the livelihood of birds at a site which was close to Oxford airport.

Mr Bowley for the applicants explained that these were relatively minor amendments which sought only to reschedule the submission of the detailed restoration and aftercare schemes for the site. As one of the largest quarries in Oxfordshire Shipton on Cherwell had a long and complex planning history passing through different ownerships and derelict for over 20 years and despite many planning permissions being granted for development nothing had happened. Earthline had however made significant progress since it had purchased the site in 2012 which had included:

- Extraction of remaining permitted limestone.
- Demolition (almost completed) of the derelict cement works.
- Commencement of restoration with inert fill.
- Commencement of aggregates recycling.

- General improvements including the upgrading of the access road

The company had inherited a complicated planning position and needed to secure some amendments to make it fit for their operational purposes. That required submission of a number of applications both to amend planning conditions and discharge planning conditions and this was one such application. Area A, at the western end of the quarry near to the site entrance, would be the first area to be restored. That was not straightforward and needed to balance the interests of nature conservation, Oxford Airport (the site lay directly beneath the main flight path), water management, geology (part of the site was a SSSI) and factory flue dust that had been deposited in the area. As restoration of the remainder of the site would not be commenced for several years and circumstances could well change during that time he emphasised that it would be sensible to defer submission of detailed schemes for these areas. In response to points raised by members he confirmed that bird strikes were a potential problem and although car storage was part of the existing planning permission Earthline was not in that business. He asked the Committee to support the officer recommendation.

He then responded to questions from:

Councillor Bartholomew – the applicants were working on an application to regularise restoration. With regard to existing permitted reserves he could not confirm if they would be worked by 2017 but if not then a separate application would be required.

Councillor Johnston – there was an extant permission for car storage but he could not say what the company's intentions were with regard to that element nor was he able to confirm whether the company would take advantage of rail reconnection and although there had been some discussions in that regard there were heavy costs involved in establishing that.

Councillor Mathew – operations at this site had commenced in 1929 with quarrying scheduled to expire in 2017 and restoration by 2036.

RESOLVED: (on a motion by Councillor Lilly, seconded by Councillor Johnston and carried by 12 votes to 0, Councillor Mathew recorded as having abstained) that planning permission for application MW.0046/16 be approved subject to conditions to be determined by the Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) including those set out in Annex 2 to the report PN6.

29/16 CONTINUATION OF DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 10 (PASSING BAYS), OF PLANNING PERMISSION 14/02055/CM (LIMESTONE EXTRACTION: EASTERN EXTENSION TO EXISTING PERMITTED LIMESTONE EXTRACTION), IN ORDER TO REMOVE THE NEED FOR PASSING BAYS PRIOR TO THE COMMENCEMENT OF DEVELOPMENT AT CASTLE BARN QUARRY, SARSDEN, CHIPPING NORTON - APPLICATION NO. MW.0071/16

(Agenda No. 7)

The Committee considered (PN7) a report setting out the terms of an application to vary an existing permission granted to enable the exportation of 72,000 tonnes of crushed rock for a temporary period of 12 months in 2015 by deleting a condition requiring provision of passing bays at two locations along a minor road from the site to the A361 recommended at that time by the Transport Development Control officer. However, a Vehicle Conflict Analysis report had since concluded that there was now no justification for such a requirement as the likelihood of HGV traffic meeting would be small and in the light of that the Transport Development Control Team now had no objection to the application providing restrictions were made on daily HGV traffic movements.

Having presented the report Mr Case and other officers responded to questions from:

Councillor Mills – he understood that 3 people were employed on site and the total movements would be 44 plus tractor movements.

Councillor Bartholomew – the passing bays had not been constructed yet and this review had been undertaken following the conflict analysis document.

Councillor Cherry – Mr Rossington confirmed that the vehicle conflict analysis had only considered the number of vehicles and it had to be accepted that there could be some damage to verges during for example bad weather.

Councillor Phillips – Mr Rossington confirmed that when provision of bays had first been considered the information now set out in the vehicle conflict analysis had not been available and officers had felt that they might be required but in the light of further information as set out in the analysis that had changed.

Councillor Mathew – the analysis had been received but not circulated with the report.

Councillor Purse – Mr Rossington confirmed forward visibility was very good at the access to the site and no doubt if passing bays were there they would be used but evidence now showed that they were not required.

Responding to a request from Councillor Purse Mr Periam advised that it would not be possible to attach a condition requiring traffic going to and leaving the site behave in a reasonable manner but an informative could be attached to that effect.

Responding to a further request from Councillor Matthew he advised that a condition could be attached requiring the applicants provide quarterly statements with regard to lorry movements to and from the site and tonnages involved.

Nicholas Johnston explained the nature of work at the quarry and the concerns expressed by a number of residents regarding the passing bays. It had seemed a substantial investment for a short permission and as the concerns expressed had now been addressed it seemed sensible to carry on with things as they were. However, he gave an undertaking that if the need for bays needed to be reconsidered then that would be done.

Responding to Councillor Bartholomew he confirmed that the site was not in their ownership and a further application would be needed if they wished to carry on after 12 months.

RESOLVED: (on a motion by Councillor Sanders, seconded by Councillor Johnston and carried by 12 votes to 0, Councillor Reynolds recorded as having abstained) that planning permission for application MW.0071/16 be approved subject to conditions to be determined by the Deputy Director for Environment & Economy (Strategy & Infrastructure) including those set out in Annex 2 to the report PN7 and:

- (a) an additional condition that the applicant to provide quarterly statements setting out lorry movements to and from the site with tonnage of materials.
- (b) additional informatives that:
 - traffic travelling to and from the site behave in a reasonable manner;
 - if a further application to extend working at the site was received then consideration should be given to provision of passing bays.

30/16 NEW TWO STOREY CLASSROOM BLOCK, ASSOCIATED LANDSCAPING, CYCLE STORES AND PROVISION OF A TEMPORARY CAR PARK AT MATTHEW ARNOLD SCHOOL, ARNOLDS WAY, CUMNOR HILL. _ APPLICATION NO. R3.0023/16

(Agenda No. 8)

The Committee considered an application for the construction of a single storey building to provide 6 new classrooms and a flexible teaching space on an existing school site within Cumnor.

Presenting the report Mr Broughton highlighted amendments to Condition iii (as set out in the resolution below), tabled an improved plan showing the new build and responded to issues raised by:

Councillor Sanders and Councillor Cherry - he advised that he would take back concerns regarding the need to break the side elevation of the new build and seek advice on tree planting to help eliminate potential problems regarding shading on solar panels.

Councillor Mathew – he confirmed that the new build did not impact on playing field space.

Ian Carr for the school commended the recommendation. The school had been oversubscribed for several years with pressure on numbers continuing to increase. Highlighting the benefits to students as a result of improved facilities and to families in the local community the school had been mindful of neighbours' concerns and had worked closely with them when revising plans.

Councillor Godden confirmed that she had requested that the application be considered by the Committee. The need for the school to expand was not in dispute and Mathew Arnold had involved the local community in the process. Cumnor parish

council was satisfied that the school had done all it could to improve the scheme and meet local concerns but it was imperative that construction traffic should be managed by securing lorry access via Arnolds Way and Cumnor Hill and not via residential roads

Responding to Councillor Sanders regarding the south side of the building Claire Williams (Architects) confirmed that it was in fact a rear elevation and that the neighbours concerned having considered alternatives had expressed a preference for the finish as proposed.

Councillor Mathew moved that the recommendation be approved with the changes as outlined to Condition iii and with an additional condition securing removal of the temporary car park on completion of the building. The motion seconded by Councillor Bartholomew was put to the Committee and –

RESOLVED: (by 11 votes to 0) that planning permission for application No. R3.0023/16 be approved subject to conditions to be determined by the Deputy Director for Environment and Economy (Strategy and Infrastructure Planning) to include the following:

- I. Detailed compliance.
- II. Permission to be implemented within 3 years.
- III. That no development should take place until a Construction Phase Traffic Management Plan (CPTMP) had been submitted to and approved by the Local Planning Authority. That CMPTP should include the routeing of HGVs west from the school site along Arnold's Way directly onto Cumnor Hill.
- IV. An updated school travel plan.
- V. The temporary car park to be removed on completion of the building.

..... in the Chair

Date of signing

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For: PLANNING AND REGULATION COMMITTEE – 5 SEPTEMBER 2016

**By: INTERIM DEPUTY DIRECTOR FOR ENVIRONMENT & ECONOMY
(COMMERCIAL)**

Development Proposed:

**New Roads and Street Works Act 1991 Section 50 Licence for
Headington Heat Pipe application.**

Division Affected: Headington and Churchill

Contact Officer: Dariusz Seroczynski **Tel:** 01865 815629

Location: Various roads in Headington Area

Applicant: Vital Energi

Application No: N/A

District Council Area: Oxford City Council

Date Received: N/A

Consultation Period: N/A

Contents:

Part 1 – Context

Part 2 – Application Facts and Background

Part 3 – Assessment of Section 50 Licence application

Part 4 – Conclusions

Recommendation: That the Licence be Granted subject to Conditions

Part 1 – Context

1. Following feedback from the Performance Scrutiny Committee the County Council has recently changed its process for approval of Section 50 Licences for installation of apparatus that will have a significant impact on the transport network.
2. The approval to grant the Section 50 Licence for this scale of works is now to be determined by the Planning and Regulation Committee.
3. Whilst statutory undertakers have a legal right to implement plant in the public highway, non-statutory undertakers are legally required to obtain authorisation from the Street Authority (for Oxfordshire this is the County Council).
4. Broadly, non-statutory undertakers (that is those who do not have the benefit of statutory rights) do not have permitted development rights as afforded to statutory utilities, and therefore applicants are also required to secure separate planning consent from the Local Planning Authority.
5. The New Roads and Street Works Act 1991 (NRSWA), associated regulations and codes of practice, establish a legislative framework for the installation of apparatus in streets and associated works in particular the excavation of the street for this purpose. This ensures that consideration is given to balancing requirements to install apparatus and limiting disruption to traffic.
6. The sole purpose of a Section 50 Licence is to grant a licence for the purposes of the statutory street works regime under NRSWA and does not dispense with the need for the licensee to obtain any other consent licence or permission that may be required. This is stated expressly in section 50 (3) NRSWA and additionally is specifically set out within the licence that is issued by the County Council.
7. The terms of the licence are directed at ensuring safety, minimising disruption to traffic and protecting the structure of the street and integrity of apparatus in it.
8. Under the Council's Scheme of Delegation, the granting of a Section 50 Licence is normally a function delegated to officers. Given the significant impact during construction on the locality concerned, it was felt appropriate for reasons of greater public transparency in the decision making, for the Planning & Regulation Committee to determine the granting, or otherwise, of the licence in this case.
9. The Local Authorities, Functions and Responsibilities, Regulations 2000 (England) as amended, means that determining a Section 50 licence under the NRWSA is not a function of the executive. Therefore, the referral here falls to this Committee, as a committee of Council, rather than to Cabinet or a Cabinet Member and the Council's Constitution provides for this.

10. The Council has a statutory duty under Section 59 of the NRSWA to use their best endeavors to co-ordinate the execution of works of all kinds (including works for road purposes) in the streets for which they are responsible.
 - a) in the interests of safety,
 - b) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability), and
 - c) to protect the structure of the street and the integrity of apparatus in it.
11. This statutory 'duty' effectively informs determination of applications for Section 50 Licence and provides a steer that the street authority is to *authorise* street works subject to conditions which secure coordination with particular reference to the specific matters identified in S.59(1) as set out above.
12. This is consistent with the statutory code of practice, the *New Roads and Street Works Act 1991 Code of Practice for the Coordination of Street Works and Works for Road Purposes*, which also focuses on the duty of Street Authorities to coordinate all works on the highway and secure the appropriate mitigations to meet the requirements of Section 59 of the NRSWA through conditions associated with the licence. The Council must have regard to such guidance.
13. In addressing this matter, planning, which is under Oxford City Council's jurisdiction is not material. Similarly, the matters that are contained in, or subject of, separate legislations are not material to planning. Section 50 of the NRSWA also states that the grant of a Section 50 Licence "does not dispense the licensee from obtaining any other consent licence or permission which may be required" Thus it is considered that the factors necessary for determining a Section 50 Licence are entirely separate to private property arrangements. The grant of a Section 50 Licence does not affect in any way private property rights.

Therefore, the appropriate approach for the Committee is to fulfil the statutory duty to use best endeavours to co-ordinate street works by determining the suitability and sufficiency of proposed conditions to be incorporated in the licence for the purposes outlined in paragraph 10.

Part 2 – Application Facts and Background

14. As part of a significant project to reduce energy costs, the Oxford University Hospital Trust (OUHT), are proposing to upgrade their heating and hot water systems at the John Radcliffe and Churchill Hospitals. This innovative scheme seeks to transfer heating via new pipelines along the public highway connecting the two sites.
15. In June this year the County Council received an application from Vital Energi, working for OUHT, for installation of 150 mm diameter district heating pre-insulated pipes on roads between and including the John Radcliffe Hospital and the Churchill Hospital. The application information is included in **Annexes 1-6**.

16. The specific route of the proposed pipe is shown at **Annex 7**. It is approximately 1.5 Km long and runs along (North to South) Woodlands Road, Sandfield Road, A420 London Road, Latimer Road, All Saints Road, Lime Walk, Old Road, and Churchill Drive.
17. Vital Energi will implement the proposal and retain responsibility until completion of the project, when the ownership is then proposed to be transferred to Aviva Investors. Aviva Investors is a global asset management business wholly owned by Aviva plc, a leading UK insurer.
18. Vital Energi have worked with Aviva on a number of projects where they design, build and construct the asset on behalf of Aviva Investors. Then once construction is complete, the ownership of the asset transfers to Aviva.
19. The proposed solution is relatively new technology within the UK but has been commonplace in other parts of Europe for several decades. This is therefore one of the first instances of this technology being installed in the public highway in England. Notwithstanding this, the Council is aware of similar proposals, both in new build and existing developments that are actively being discussed.
20. A planning application for these works has been submitted to the Local Planning Authority (Oxford City Council) and this is currently programmed to be considered on the 7th September 2016. The result of the City's Planning Committee decision, or any relevant conditions imposed, will not be known before this Committee. However, recommendations of the relevant report will be reported orally at the meeting.

Part 3 – Assessment of Section 50 Licence application by Vital Energi

21. Officers have engaged with the applicant and assessed various documents included in the application. The focus of the assessment was mainly on the proposed traffic management ensuring that works were planned appropriately and fitting to the disruptive nature of the proposed works.
22. Discussions with the applicant on Traffic Management and its approval are 'in principle and without prejudice' until the decision regarding the Section 50 License and planning permission is made.
23. Officers have met the Applicant on a number of occasions, discussed the proposals and walked through affected sites during which they were able to assess the proposed programme, traffic management and works in detail and are of the view that the works planned are acceptable. This dialogue is continuing and also includes local County and City elected representatives, whose engagement in the process is very welcomed.
24. The nub of the Section 50 matter is that the works will create significant disruption to residents of Headington where local road closures, two or three way traffic signals, or one-way restrictions are being proposed by the applicant. The applicant proposes that these are to be done in stages affecting small lengths of the highway network at any one time. The total

duration of the works is currently estimated to last up to 5 months. Full details of the traffic Management proposals can be found at <http://www.ouh.nhs.uk/about/developments/energy/default.aspx>

25. During the assessment it has been identified that a number of Conditions would need to be attached to the Section 50 Licence, should it be granted, to ensure relevant information and controls are in place. These necessary Conditions, with their respective Reasons, are considered to be as follows:

CONDITION i

All works shall be Noticed to the relevant Street Authority (namely Oxfordshire County Council, hereinafter in this and following Conditions described as “the Council”) **in accordance with New Roads and Street Works Act 1991 including applying for Section 50 Licence.**

REASON:

It is a statutory requirement that the Street Authority be advised of all works on the public highway by the organisation promoting the works.

INFORMATIVE:

The promotor of the works is required to submit a Notice, to the Council, 3 months in advance of the likely start date to provide the Council the opportunity to coordinate works with any other activity in the area. The promotor is then required to submit a further notice to the Council, 10 days before the works start, to provide an actual start date.

There are several other works taking place within the Headington area at this time, including the works associated with the Council’s own Access to Headington scheme. It is therefore vitally important that the applicant conform to the statutory requirements of Noticing the Council to ensure that these works can be coordinated to mitigate the impact of them as far as practicable.

CONDITION ii

All works shall comply with the Code of Practice for NRSWA, namely Chapter 8 Signing and Guarding, and reinstatements.

REASON:

Chapter 8 Signing and Guarding is the detail by which traffic management operatives and supervisors safely carry out the placement of signing and guarding materials (for example but not limited to cones and / or barriers) to minimise the risk for the public, ensuring they should be able to see the extent and nature of the obstruction well before they reach it. It also assures appropriate physical protection of the workforce.

INFORMATIVE:

County Council officers will carry out inspections of the traffic management and materials used as the works progress as well as checking the reinstatement meets the Council’s standards once works are complete. Should the applicant fail on this Condition and works are not undertaken to standard the Council will invoke ‘in principle’ sanctions granted under the New Roads and Street Works Act 1991.

CONDITION iii

Traffic Management associated with the proposed work shall be agreed, in advance of the works commencing, with the appropriate County Council officers with special emphasis on minimising disruption and inconvenience to local residents and traffic on local highway network.

REASON:

Traffic management solutions could have a significant impact on local communities so they need to be agreed with the Council's officers who have excellent local knowledge and understanding of local issues and needs as well as likely impacts of any proposals.

INFORMATIVE:

A Network Supervisor officer of the Council (whose name will be provided to the works promoter) has the responsibility to question the best method of work and traffic management of anyone wishing to work on the highway and in this case the works promoter.

CONDITION iv

Any amendments to agreed Traffic Management measures must be agreed in advance and dialogue on relevant matters must continue with County Council officers once the carriageway is excavated.

REASON

Any changes to traffic management might impact the wider highway network and therefore changes need to be agreed in advance of works, in order to eliminate or minimise any potential detrimental effects.

INFORMATIVE:

Vital Energi must be in constant touch with the above-mentioned Network Supervisor Officer.

CONDITION V

Any Temporary Traffic Regulation Orders or Temporary Traffic Signals required must be duly applied for in a timely manner.

REASON:

Publication of Traffic Orders is a statutory requirement that allows all stakeholders to be made aware of and make comments on the proposals affecting their locality.

INFORMATIVE :

TTROs follows a 12-week process.

26. The above conditions are part of standard conditions as set out in the application form for Section 50 Licence and listed in the attached Annex 8.

Part 4 – Conclusions and Recommendations

Comments of the Deputy Director (Commercial)

27. In view of the proposals received and the traffic management mitigation measures proposed, in the context on the powers available to and the responsibilities of the County Council as Street Authority, there are no grounds to refuse a NRSWA Section 50 Licence to the applicant Vital Energi.
28. That the conditions (i) to (v), detailed in para 26 and the standard conditions listed in Annex 8, are attached if the Committee is minded to grant a New Roads and Street Works Act 1991 Section 50 Licence to the applicant, Vital Energi.
29. The Committee's consideration of this Licence application is distinct from any decision of the relevant Local Planning Authority (in this case Oxford City Council) to grant or not to grant planning permission for the district heating pipe.

RECOMMENDATION

30. It is **RECOMMENDED** that a New Roads and Street Works Act Section 50 Licence, subject to the proposed Conditions and Reasons (i) to (v) as detailed in para 26 and in Annex 8, be granted to the applicant, Vital Energi, for the street works related to installation of a district heating pipe as described in the application made and details thereof attached in Annexes 1-6.

CHRIS MCCARTHY

Deputy Director for Environment & Economy (Commercial)

August 2016



Form SWL 2

STREET WORKS LICENCE
Section 50 New Roads and Street Works Act 1991
Application for placing NEW APPARATUS in the Highway

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Non-compliance with any requirement of the New Roads and Street Works Act 1991 may result in severe financial penalties.

Oxfordshire County Council Reference Number: S50-

Section 1: Owner of Apparatus

Surname: [Click here to enter text.](#)

Forenames: [Click here to enter text.](#)

Or Full Registered Name of Company and Company Reg. No.

Vital Energi Utilities Ltd 4050190

Contact Name: Lewis Simpson

Address: Century House, Roman Rd, Blackburn

Postcode: BB1 2LD **Tel. No:** 01254 296000
Email Address: lewis.simpson@vitalenergi.co.uk
Fax no: 01254 296040

Section 2: Precise Location of Proposed Works (Detailed plans to be submitted with this form)

Property Name/Number: [Click here to enter text](#) **Road/Street:** All Saints Road

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 7AU **National Grid Reference:** SP 543066

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>	Standard Works	<input type="checkbox"/>	Major Works	<input checked="" type="checkbox"/>
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Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 120

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 13/09/2016 Proposed Finish Date: 16/01/2017

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
Work Lies Within (Please tick)	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
Traffic Control (Please tick)	Stop/Go Boards	<input type="checkbox"/>	Temp. Traffic Signals	<input type="checkbox"/>	Road Closure	<input checked="" type="checkbox"/>		
	Priority Flow	<input type="checkbox"/>	Not to be Used	<input type="checkbox"/>				

Section 3: Details of Person/Company Conducting the Works.

Copies of New Road and Streetworks cards for Operative and Supervisor (front and back) to be submitted with this form

Contractor's Name: CPC Civils

Company Reg. No: 3362396

Tel. No: 0121 766 7019

Address: 112 Cherrywood Road, Bordesley Green, Birmingham, B9 4UH

Supervisor's Name: John Francis O'Boyle

Accreditation No: 22173294

Operative's Name: Ronan Cunningham

Accreditation No: 25520696

Operative's Name: Craig Holmes

Accreditation No: 25352130

Section 4: Insurance

Public Liability Insurance of a minimum of £10 million must be provided up to the completion of the permanent reinstatement (copy of certificate to be submitted with this form)

Insurance Company: QBE Insurance (Europe) Ltd

Address Arthur J Gallagher Insurance Brokers Ltd, 3rd Floor Riverside, Cloister House, New Bailey Street, Manchester M3 5AG

Tel.No: 0161 935 2838

Policy No: Y059492QBE0115A

Expiry Date: 2nd July 2016

Section 5: Declaration by apparatus owner

I confirm that the foregoing details are correct and acknowledge that the works referred to above will be conducted in accordance with the requirements of the New Roads and Street Works Act 1991, associated legislation and Codes of Practice together with any other conditions imposed by the Street Authority.

I also acknowledge the statutory need for me to pay the prescribed inspections fees which will be imposed by the Street Authority, including any defect inspection fees and the cost of any necessary remedial works conducted by the Street Authority during the guarantee period.

I also acknowledge that the license is granted on the condition that I will indemnify the Street Authority against any claim in respect of injury, damage or loss arising out of:-

- (a) the placing or presence in the street of apparatus to which the license relates;
or
- (b) the execution by any person of any works authorised by the license.

I also acknowledge that I have read and understood the Notes for Guidance for Applicants (Form SWL1) and conditions included in section 6 of this application.

Signature: Click here to enter text.

Date: Click here to enter text.

Name and Position in Company: Click here to enter text.

Simon Jones Ops Mgr

Street Works Licence Conditions and Authorisation

Section 6: Conditions

Please refer to NRSWA Act 1991 Schedule 3 for details related to this section

1. Oxfordshire County Council accepts no responsibility for damage to installations except for damage or loss which is attributable to misconduct or negligence on the part of the Council as Highway Authority or a person for whom the Council is responsible or a third party, that is, a person for whom neither the Licensee nor the Council as Highway Authority are responsible.
2. Oxfordshire County Council accepts no responsibility for damage to third parties however caused and requires to be indemnified against any third-party claim in this respect.
3. The Licensee shall comply with the requirements of the New Roads and Street Works Act 1991, associated legislation and Codes of Practice.
4. The Licensee shall indemnify and keep indemnified the County Council in respect of any third-party claims or demands which may arise from the placing or presence in the street of the apparatus or the executing of any works to or in connection with the apparatus.
5. The Licensee shall effect insurance indemnifying the Licensee and the County Council in the terms of the indemnity set out in condition 4 hereof and shall, when required by the County Council or its agents, produce evidence of such insurance to the satisfaction of the County Council or its agents. Such insurance shall afford indemnity of not less than £10 million in respect of each and every claim save that a minimum figure of £2 million shall be substituted where works have been completed and such works have not been along, across, over, or under a carriageway or within one metre of a carriageway provided always that if further works are undertaken then the requirement to ensure the higher level shall be reinstated for the duration of the works.
6. The Licensee shall inform the County Council of the removal or relocation of any apparatus installed under this licence.
7. The Licensee shall undertake to reimburse the County Council for the cost of any inspections occasioned by the works carried out under this licence and shall liaise with the Street Works Manager on this matter.
8. The Licensee shall liaise with the Street Works Team via email (StreetWorks.TrafficManagement@Oxfordshire.gov.uk) as to the timing and execution of the works and shall comply with all notification, co-ordination, reinstatement and safety requirements of the New Roads and Street Works Act 1991.

9. The Licensee shall, upon completion of the work supply the County Council with a plan showing the as-constructed position and depth of the apparatus installed in the highway under this licence.
10. The Licensee shall refer to and comply with the requirements of NJUG Publication Volume 1, "NJUG guidelines on the positioning and colour coding of underground utilities apparatus".
11. The Licensee shall pay to the County Council all Licence, Records and Administration fees associated with this licence.
12. The Licensee shall liaise with any Sewer Authority, Bridge Authority, Transport Authority, Planning Authority or other Undertaker which may be affected by the works proposed under this licence and shall obtain any consent required from these authorities or bodies prior to the commencement of any work under this licence.
13. The Licensee shall ensure that the contractor for the works shall use the relevant accredited personnel and comply with the indemnity requirements outlined in conditions 4 and 5 above.
14. The Licensee shall comply with the requirements of NJUG Publication Number 4 when working near trees.
15. The Licensee shall comply with Schedule 3 of the New Roads and Streetworks Act 1991.
16. On receipt of the Application a relevant County Councils NRSWA Network Supervisor will be allocated to the case with whom any further contacts related to all aspects of the application need to be established and maintained. The applicant will be informed of relevant contact details.
17. The Licensee shall ensure that a Traffic Management Plan is supplied to the relevant County Councils NRSWA Network Supervisor to include dates, times, method of traffic management and reinstatement.
18. The Licensee should adhere to NRSWA Act 1991 Schedule 3 (Streetworks Licencing) conditions and provisions and the Licensee accepts the Licence upon and subject to the said terms, conditions and provisions.
19. A Street Works Licence is granted to the owner/s of the apparatus and his successors in title. Where the licensee proposes to part with the interest in the apparatus, any existing licence must be transferred in the name of the new owner/s. Written notice shall be given to the Street Authority stating that ownership is to be transferred and to whom, whereupon Form XXX (Application for Transfer of Licence Ownership) shall be issued for completion and returned by the new owner/s



Form SWL 2

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Application for placing NEW APPARATUS in the Highway

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Surname: [Click here to enter text.](#)

Forenames: [Click here to enter text.](#)

Or Full Registered Name of Company and Company Reg. No.

Vital Energi Utilities Ltd 4050190

Contact Name: Lewis Simpson

Address: Century House, Roman Rd, Blackburn

Postcode: BB1 2LD **Tel. No:** 01254 296000
Email Address: lewis.simpson@vitalenergi.co.uk
Fax no: 01254 296040

Section 2: Precise Location of Proposed Works (Detailed plans to be submitted with this form)

Property Name/Number: [Click here to enter text.](#) **Road/Street:** Latimer Road

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 7PF **National Grid Reference:** SP 541068

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>
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Standard Works	<input type="checkbox"/>
----------------	--------------------------

Major Works	<input checked="" type="checkbox"/>
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Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 280

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 13/09/2016 Proposed Finish Date: 16/01/2017

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
Work Lies Within (Please tick)	Stop/Go Boards	<input type="checkbox"/>	Temp. Traffic Signals	<input type="checkbox"/>	Road Closure	<input checked="" type="checkbox"/>		
	Priority Flow	<input type="checkbox"/>	Not to be Used	<input type="checkbox"/>				

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Accreditation No: 22173294

Operative's Name: Ronan Cunningham

Accreditation No: 25520696

Operative's Name: Craig Holmes

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Section 4: Insurance

Public Liability Insurance of a minimum of £10 million must be provided up to the completion of the permanent reinstatement (copy of certificate to be submitted with this form)

Insurance Company: QBE Insurance (Europe) Ltd

Address Arthur J Gallagher Insurance Brokers Ltd, 3rd Floor Riverside, Cloister House, New Bailey Street, Manchester M3 5AG

Tel.No: 0161 935 2838

Policy No: Y059492QBE0115A

Expiry Date: 2nd July 2016

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I confirm that the foregoing details are correct and acknowledge that the works referred to above will be conducted in accordance with the requirements of the New Roads and Street Works Act 1991, associated legislation and Codes of Practice together with any other conditions imposed by the Street Authority.

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Date: Click here to enter a date.

Name and Position in Company: Click here to enter text

Simon Jones Ops Mgr

Street Works Licence Conditions and Authorisation

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Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 310

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 13/09/2016 Proposed Finish Date: 27/11/2016

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
Work Lies Within (Please tick)	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
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Surname: [Click here to enter text.](#)

Forenames: [Click here to enter text.](#)

Or Full Registered Name of Company and Company Reg. No.

Vital Energi Utilities Ltd 4050190

Contact Name: Lewis Simpson

Address: Century House, Roman Rd, Blackburn

Postcode: BB1 2LD **Tel. No:** 01254 296000
Email Address: lewis.simpson@vitalenergi.co.uk
Fax no: 01254 296040

Section 2: Precise Location of Proposed Works (Detailed plans to be submitted with this form)

Property Name/Number: [Click here to enter text](#) **Road/Street:** Old Road

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 **National Grid Reference:** SP 544063

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>	Standard Works	<input type="checkbox"/>	Major Works	<input checked="" type="checkbox"/>
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Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 55

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 21/11/2016 Proposed Finish Date: 04/12/2016

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
Work Lies Within (Please tick)	Stop/Go Boards	<input type="checkbox"/>	Temp. Traffic Signals	<input checked="" type="checkbox"/>	Road Closure	<input type="checkbox"/>		
	Priority Flow	<input type="checkbox"/>	Not to be Used	<input type="checkbox"/>				

Section 3: Details of Person/Company Conducting the Works.

Copies of New Road and Streetworks cards for Operative and Supervisor (front and back) to be submitted with this form

Contractor's Name: CPC Civils

Company Reg. No: 3362396

Tel. No: 0121 766 7019

Address: 112 Cherrywood Road, Bordesley Green, Birmingham, B9 4UH

Supervisor's Name: John Francis O'Boyle

Accreditation No: 22173294

Operative's Name: Ronan Cunningham

Accreditation No: 25520696

Operative's Name: Craig Holmes

Accreditation No: 25352130

Section 4: Insurance

Public Liability Insurance of a minimum of £10 million must be provided up to the completion of the permanent reinstatement (copy of certificate to be submitted with this form)

Insurance Company: QBE Insurance (Europe) Ltd

Address Arthur J Gallagher Insurance Brokers Ltd, 3rd Floor Riverside, Cloister House, New Bailey Street, Manchester M3 5AG

Tel.No: 0161 935 2838

Policy No: Y059492QBE0115A

Expiry Date: 2nd July 2016

Section 5: Declaration by apparatus owner

I confirm that the foregoing details are correct and acknowledge that the works referred to above will be conducted in accordance with the requirements of the New Roads and Street Works Act 1991, associated legislation and Codes of Practice together with any other conditions imposed by the Street Authority.

I also acknowledge the statutory need for me to pay the prescribed inspections fees which will be imposed by the Street Authority, including any defect inspection fees and the cost of any necessary remedial works conducted by the Street Authority during the guarantee period.

I also acknowledge that the license is granted on the condition that I will indemnify the Street Authority against any claim in respect of injury, damage or loss arising out of:-

- (a) the placing or presence in the street of apparatus to which the license relates; or
- (b) the execution by any person of any works authorised by the license.

I also acknowledge that I have read and understood the Notes for Guidance for Applicants (Form SWL1) and conditions included in section 6 of this application.

Signature: Click here to enter text.

Date: Click here to enter text.

Name and Position in Company: Click here to enter text.

Street Works Licence Conditions and Authorisation



Form SWL 2

STREET WORKS LICENCE
Section 50 New Roads and Street Works Act 1991
Application for placing NEW APPARATUS in the Highway

Those applicants not familiar with the requirements of this legislation are strongly advised to appoint a contractor with the appropriate knowledge to help complete this application and to conduct the works on their behalf.

Non-compliance with any requirement of the New Roads and Street Works Act 1991 may result in severe financial penalties.

Oxfordshire County Council Reference Number: S50-

Section 1: Owner of Apparatus

Surname: Click here to enter text.

Forenames: Click here to enter text.

Or Full Registered Name of Company and Company Reg. No.

Vital Energi Utilities Ltd 4050190

Contact Name: Lewis Simpson

Address: Century House, Roman Rd, Blackburn

Postcode: BB1 2LD

Tel. No: 01254 296000

Email Address: lewis.simpson@vitalenergi.co.uk

Fax no: 01254 296040

Section 2: Precise Location of Proposed Works (Detailed plans to be submitted with this form)

Property Name/Number: Click here to enter text. **Road/Street:** Lime Walk

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 7AF

National Grid Reference: SP 544065

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>	Standard Works	<input type="checkbox"/>	Major Works	<input checked="" type="checkbox"/>
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Section 6: Conditions

Please refer to NRSWA Act 1991 Schedule 3 for details related to this section

1. Oxfordshire County Council accepts no responsibility for damage to installations except for damage or loss which is attributable to misconduct or negligence on the part of the Council as Highway Authority or a person for whom the Council is responsible or a third party, that is, a person for whom neither the Licensee nor the Council as Highway Authority are responsible.
2. Oxfordshire County Council accepts no responsibility for damage to third parties however caused and requires to be indemnified against any third-party claim in this respect.
3. The Licensee shall comply with the requirements of the New Roads and Street Works Act 1991, associated legislation and Codes of Practice.
4. The Licensee shall indemnify and keep indemnified the County Council in respect of any third-party claims or demands which may arise from the placing or presence in the street of the apparatus or the executing of any works to or in connection with the apparatus.
5. The Licensee shall effect insurance indemnifying the Licensee and the County Council in the terms of the indemnity set out in condition 4 hereof and shall, when required by the County Council or its agents, produce evidence of such insurance to the satisfaction of the County Council or its agents. Such insurance shall afford indemnity of not less than £10 million in respect of each and every claim save that a minimum figure of £2 million shall be substituted where works have been completed and such works have not been along, across, over, or under a carriageway or within one metre of a carriageway provided always that if further works are undertaken then the requirement to ensure the higher level shall be reinstated for the duration of the works.
6. The Licensee shall inform the County Council of the removal or relocation of any apparatus installed under this licence.
7. The Licensee shall undertake to reimburse the County Council for the cost of any inspections occasioned by the works carried out under this licence and shall liaise with the Street Works Manager on this matter.
8. The Licensee shall liaise with the Street Works Team via email (StreetWorks.TrafficManagement@Oxfordshire.gov.uk) as to the timing and execution of the works and shall comply with all notification, co-ordination, reinstatement and safety requirements of the New Roads and Street Works Act 1991.

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12. The Licensee shall liaise with any Sewer Authority, Bridge Authority, Transport Authority, Planning Authority or other Undertaker which may be affected by the works proposed under this licence and shall obtain any consent required from these authorities or bodies prior to the commencement of any work under this licence.
13. The Licensee shall ensure that the contractor for the works shall use the relevant accredited personnel and comply with the indemnity requirements outlined in conditions 4 and 5 above.
14. The Licensee shall comply with the requirements of NJUG Publication Number 4 when working near trees.
15. The Licensee shall comply with Schedule 3 of the New Roads and Streetworks Act 1991.
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17. The Licensee shall ensure that a Traffic Management Plan is supplied to the relevant County Councils NRSWA Network Supervisor to include dates, times, method of traffic management and reinstatement.
18. The Licensee should adhere to NRSWA Act 1991 Schedule 3 (Streetworks Licencing) conditions and provisions and the Licensee accepts the Licence upon and subject to the said terms, conditions and provisions.
19. A Street Works Licence is granted to the owner/s of the apparatus and his successors in title. Where the licensee proposes to part with the interest in the apparatus, any existing licence must be transferred in the name of the new owner/s. Written notice shall be given to the Street Authority stating that ownership is to be transferred and to whom, whereupon Form XXX (Application for Transfer of Licence Ownership) shall be issued for completion and returned by the new owner/s



Form SWL 2

STREET WORKS LICENCE**Section 50 New Roads and Street Works Act 1991
Application for placing NEW APPARATUS in the Highway**

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Oxfordshire County Council Reference Number: S50-

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Surname: [Click here to enter text.](#)

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Or Full Registered Name of Company and Company Reg. No.

Vital Energi Utilities Ltd 4050190

Contact Name: Lewis Simpson

Address: Century House, Roman Rd, Blackburn

Postcode: BB1 2LD **Tel. No:** 01254 296000
Email Address: lewis.simpson@vitalenergi.co.uk
Fax no: 01254 296040

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Property Name/Number: [Click here to enter text](#) **Road/Street:** Old Road

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 **National Grid Reference:** SP 544063

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>	Standard Works	<input type="checkbox"/>	Major Works	<input checked="" type="checkbox"/>
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Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 55

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 21/11/2016 Proposed Finish Date: 04/12/2016

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
Work Lies Within (Please tick)	Stop/Go Boards	<input type="checkbox"/>	Temp. Traffic Signals	<input checked="" type="checkbox"/>	Road Closure	<input type="checkbox"/>		
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Street Works Licence Conditions and Authorisation

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1. Oxfordshire County Council accepts no responsibility for damage to installations except for damage or loss which is attributable to misconduct or negligence on the part of the Council as Highway Authority or a person for whom the Council is responsible or a third party, that is, a person for whom neither the Licensee nor the Council as Highway Authority are responsible.
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5. The Licensee shall effect insurance indemnifying the Licensee and the County Council in the terms of the indemnity set out in condition 4 hereof and shall, when required by the County Council or its agents, produce evidence of such insurance to the satisfaction of the County Council or its agents. Such insurance shall afford indemnity of not less than £10 million in respect of each and every claim save that a minimum figure of £2 million shall be substituted where works have been completed and such works have not been along, across, over, or under a carriageway or within one metre of a carriageway provided always that if further works are undertaken then the requirement to ensure the higher level shall be reinstated for the duration of the works.
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Email Address: lewis.simpson@vitalenergi.co.uk

Fax no: 01254 296040

Section 2: Precise Location of Proposed Works (Detailed plans to be submitted with this form)

Property Name/Number: [Click here to enter text.](#) **Road/Street:** Sandfield Road

District/Ward/Locality: Headington **City/Town/Village:** Oxford

Postcode: OX3 7RQ **National Grid Reference:** SP 540070

Category of Work
(Please tick)

Minor Works	<input type="checkbox"/>
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Standard Works	<input type="checkbox"/>
-----------------------	--------------------------

Major Works	<input checked="" type="checkbox"/>
--------------------	-------------------------------------

Type of Works (e.g. Duct/Pipe/Cable): Pipe, duct & cable

Estimated Length of Work (Metres): 240

Average Depth of Excavations (Metres): 1.2 metres

Proposed Start Date: 13/09/2016 Proposed Finish Date: 20/11/2016

Hours of Working (Please tick)	Daylight	<input checked="" type="checkbox"/>	24 Hours	<input type="checkbox"/>	Night Time	<input type="checkbox"/>	AM Only	<input type="checkbox"/>
Work Lies Within (Please tick)	Verge	<input type="checkbox"/>	Footway	<input type="checkbox"/>	Carriageway	<input checked="" type="checkbox"/>		
Traffic Control (Please tick)	Stop/Go Boards	<input type="checkbox"/>	Temp. Traffic Signals	<input type="checkbox"/>	Road Closure	<input checked="" type="checkbox"/>		
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Signature: Click here to enter text.

Date: Click here to enter text.

Name and Position in Company: Click here to enter text.

Simon Jones Ops Mgr

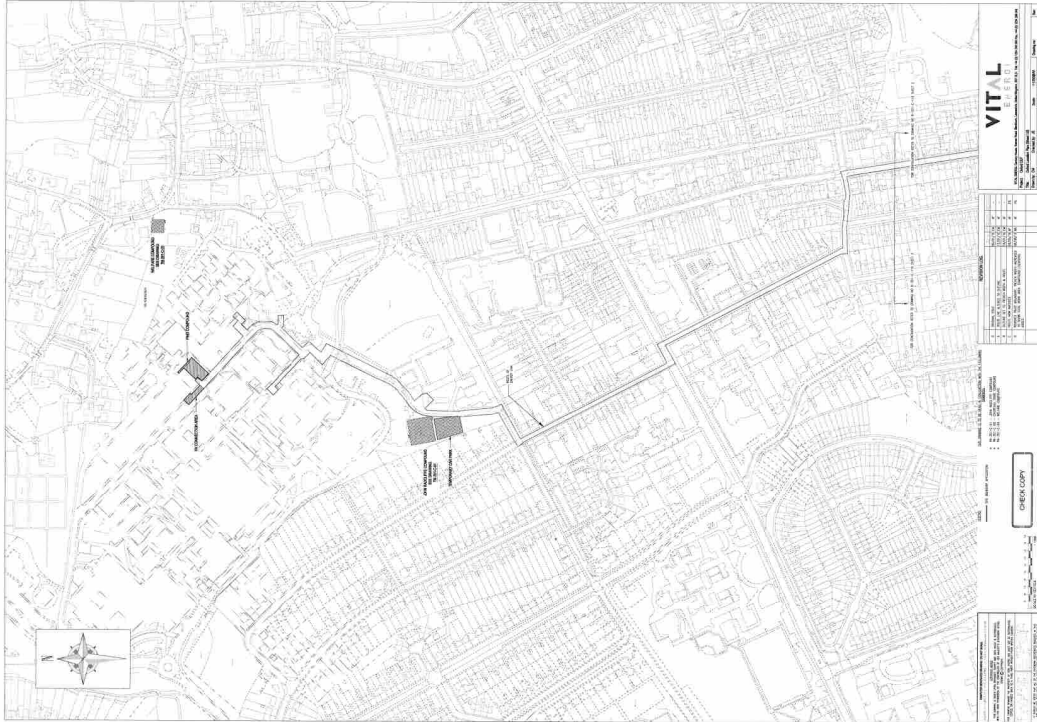
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Annex 8.

Standard Conditions

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For: PLANNING AND REGULATION COMMITTEE – 5 SEPTEMBER 2016

By: ACTING DIRECTOR FOR ENVIRONMENT AND ECONOMY (STRATEGY & INFRASTRUCTURE PLANNING)

Development Proposed:

The continuation of the development permitted by SUT/APF/616/7 (the modification and installation of new rail sidings) without complying with condition 7 (to allow trains to be unloaded up to 2200 hours Monday through Friday) at The Portway, Appleford Sidings, Appleford, Oxfordshire, OX14 4PJ

Division Affected: Sutton Courtenay and Marcham

Contact Officer: Mary Thompson **Tel:** 01865 815901

Location: Appleford Rail Sidings

Application No: MW.0025/16 P16/V0480/CM

Applicant: Hanson Quarry Products Europe Limited

District Council Area: Vale of White Horse

Date Received: 25 January 2016

Consultation Period: 18 February – 10 March 2016

Contents:

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Relevant Planning Documents
- Part 4 – Analysis and Conclusions

Recommendation

The report recommends that the application (MW.0025/16) be **REFUSED**.

• Part 1 – Facts and Background

Location (see plan 1)

1. The site lies within the Sutton Courtenay minerals and waste complex, to the west of Appleford and east of Sutton Courtenay. Didcot lies 1.6 kilometres (1 mile) to the south. The rail sidings lie in the central part of the site to the north of the Portway road and site offices.

Site and Setting

2. The railway line branches off the main Oxford to London line and opens into four sidings within the site, two of which are used by the applicant and two of which are leased to FCC for waste import.
3. To the north is a restored area of landfill and an area of industrial development, to the south are site offices, industrial development and the Portway road. To the west lies Corridor Road and to the east the main railway line and properties on Main Road in Appleford. The nearest properties are located approximately 300 metres from the end of the rail sidings closest to them. Properties at Chambray Close lie approximately 600 metres north east of the unloading area.

Background and History of the Site

4. Planning permission for the sidings was first granted in 1972 (reference P633/72). A subsequent permission for a different rail configuration was granted in 1976 (reference SUT/APF/616/7).
5. In 2013 the applicant submitted a Certificate of Lawfulness for Proposed Use or Development (CLOPUD) application to establish the lawful uses at the site. During this process it was established that permission SUT/APF/616/7 had replaced the earlier consent and its conditions apply.
6. There was no condition to control working hours on the earlier consent, but SUT/APF/616/7 did include a condition controlling this to ensure operations cease by 6pm on weekdays. Therefore, prior to 2013 the applicant had been unloading trains from the sidings overnight. Since the 2013 CLOPUD established that the earlier consent is no longer extant, they have generally been complying with the working hours condition on permission SUT/APF/616/7.

Details of the Development

7. Condition 5 on permission SUT/APF/616/7 states that no unloading of trains shall take place, except between 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays.

8. It is proposed to alter the wording of this condition so that it states that trains can be unloaded between 7.00 am and 10.00 pm Mondays to Fridays. It is not proposed to change the permitted unloading hours for Saturdays. Operations are not permitted on a Sunday and no change is proposed to this.
9. The applicant has explained that the reason for the proposed change is that due to the time it takes to unload a train, the current hours mean that trains cannot utilise the 4.00 pm to 5.00 pm delivery slot. This restricts the volume of material which can be imported. Extending the weekday hours to 10.00 pm would allow an extra train per day into the depot. The applicant estimates that an extra train would not come in every day, but on average twice per week.
10. The applicant estimates that it can take up to 4 hours to unload a train and therefore if a train arrives at 5.00 pm it could take until 9.00 pm to unload. Therefore, an extra hour until 10.00 pm has been sought, in order to allow for instances where the train arrives late.
11. Condition 5 does not control the hours for trains to arrive or depart. However, the applicant has stated that the train would leave soon after unloading was complete.
12. The applicant generally uses the rail sidings to import aggregate. However, the 2013 CLOPUD established that the sidings are not limited to importing minerals and waste related materials and so the applicant can also use them to import other materials associated with the industrial uses.
13. No other changes are proposed to the existing conditions on the consent.
14. The application is accompanied by a noise assessment. This shows that noise levels at properties in Chambrai Close would exceed existing measured background levels by between by up to 6 decibels between 7.00pm and 8.00 pm, 7 decibels between 8.00 pm and 9.00 pm and 8 decibels between 9.00 pm and 10.00 pm.
15. In response to the objection to the application from the Environmental Health Officer, the applicant has suggested that they would be happy with a condition which specified an end time of 9.00 pm rather than 10.00 pm as originally proposed. They would also be happy to restrict these late trains to 150 occasions in any 12 months period. They have also indicated that they would accept a condition making the change to the condition temporary for one year to allow the Minerals Planning Authority time to assess the impact before a decision is made on whether permanent consent should be granted for evening operations.

• **Part 2 – Other Viewpoints**

Representations

16. Three letters of representation have been received. These are summarised below.
17. Representation 1 – Object to excessive noise in the evenings and to the increase in ground vibrations. These already create a nuisance.
18. Representation 2 – Object to application on grounds of noise pollution during unsociable hours and dust pollution. Unloading already causes noise nuisance, extending this into the evening will impact quality of life, house prices and wildlife. Noise will seem louder in the evenings. During the summer it would affect residents relaxing outside and in winter noise pollution could be increased by weather conditions.
19. Representation 3 – Object. Already have noise during the daytime which is intrusive whilst in the garden. Have experienced loud noise from the site until 10.00 pm already which sounded like a train. This was in February with the windows closed; it would be unbearable with them open.

Consultation Responses

20. Sutton Courtenay Parish Council – Objects to the extension of time for unloading to 10.00 pm due to the potential for noise nuisance to the community from late evening operations, particularly in summer when windows in houses are open. The need to extend the hours is not justified as the applicant states that the occasions when unloading to 10.00 pm would be rare.
21. Appleford Parish Council – Object due to the additional nuisance and noise to residents.
22. Didcot Parish Council – Didcot Town Council has no strong views on the application.
23. Vale of White Horse District Council Planning – No objection subject to environmental health being satisfied there will be no adverse impact on nearby residential properties.
24. Vale of White Horse District Council Environment Health – Recommends refusal - the acoustic report suggests an increase in external noise levels at nearby properties which would represent a significant loss of amenity for local residents.
25. Environment Agency – No comments; there is no need to consult the Environment Agency on applications such as this.

26. Thames Water – No objection. The application does not affect Thames Water.
27. Network Rail – No response at time of writing report
28. OCC Transport Development Control – No response at time of writing report
29. OCC Biodiversity – Objection - Further information is required in order to assess the impact of extended hours on biodiversity, especially in relation to floodlighting and noise.
30. OCC Drainage – No objection.

Part 3 – Relevant Planning Documents

Relevant Planning Policies – (See policy annex attached to this Agenda)

31. Development should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
32. The relevant development plan documents are:
 - The Vale of White Horse Local Plan 2011 (VLP) Saved policies
 - The Oxfordshire Minerals and Waste Local Plan (OMWLP)1996
33. The Draft Oxfordshire Minerals and Waste Local Plan Core Strategy (OMWCS) is not yet adopted but was submitted to the Secretary of State for independent examination in January 2016. Therefore, the plan is at an advanced stage and the draft policies can be applied as relevant.
34. The Vale of White Horse District Council's Local Plan 2031 Part One was submitted to the Secretary of State for independent examination in March 2015. Hearings took place in September 2015 and stage 2 of the examination took place in February 2016. Therefore, as with the OMWCS the plan is at an advanced stage and the draft policies can be applied as relevant.

Relevant Policies

35. The relevant development plan policies are:
 - Vale of White Horse Local Plan (VLP) 2011
DC9 – Neighbouring amenity
 - Oxfordshire Minerals & Waste Local Plan (OMWLP) 1996
PE18 – Imposition of conditions to protect amenity
36. The relevant emerging plan policies are:

- Draft Oxfordshire Minerals and Waste Core Strategy (OMWCS)
 - C1 – Sustainable development
 - C5 - Local environment, amenity and economy
 - C10 – Transport
 - M6 - Aggregate rail depots
- Draft Vale of White Horse Local Plan 2031 (VLP 2031)
 - Core Policy 1 – Presumption in favour of sustainable development
 - Core Policy 46 – Conservation and Improvement of Biodiversity

Comments of the Deputy Director for Strategy and Infrastructure Planning

Sustainable Development

37. The NPPF contains a presumption in favour of sustainable development which has environmental, economic and social roles and this is reflected in OMWCS policy C1 and Core Policy 1 of the VLP 2031. The extension of unloading hours to allow an additional train to be unloaded per day as necessary would contribute towards sustainable development as rail is a more sustainable method of transporting aggregate than road. OMWCS paragraph 6.54 states that the harm caused by the movement of minerals by road can be reduced by encouraging the uptake of alternative transport methods such as rail. Policy C10 states that where possible minerals development should be located to enable the transport of minerals by rail. It would have an environmental role through the transportation of aggregate by rail rather than road, an economic role through its contribution towards providing the materials necessary for the provision of infrastructure and a social role through the provision of employment to the local community and the resources necessary for the creation of a high quality built environment.
38. Enabling an extra train per day would encourage the uptake of mineral transport by rail in accordance with OMWCS policy C10 and with the principle of sustainable development. Therefore, subject to there not being other material considerations indicating otherwise, the application should be approved.

Rail Depots

39. The OMWCS recognises that there will be an ongoing need for importation of aggregate minerals not found in Oxfordshire and policy M6 safeguards existing aggregate rail depots, including Appleford Sidings.
40. Although this policy is relevant to the site and generally supports the use of Appleford Sidings for the import of aggregate, it is not directly helpful in assessing the proposal to extend unloading hours.

Amenity

41. OMWLP policy PE18 refers to the Code of Practice which sets out guidance on hours of working for which the standard hours are 7.00 am to 6.00 pm on weekdays and 7.00 am to 1.00 pm on Saturdays, noise, dust and transport. OMWCS policy C5 states that proposals for minerals and waste development shall demonstrate that there would be no adverse impact on the local environment, human health or residential amenity, including from noise, dust, traffic and air quality.
42. VLP policy DC9 states that development will not be permitted if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of a number of factors including noise or vibration, dust, pollution or external lighting.
43. The proposal to extend the hours of unloading at the rail siding has the potential to increase noise disturbance outside of normal operating hours. Three local residents have objected to the proposal as they are concerned about the impact on their amenity from the additional noise. Unloading of trains already takes place earlier in the day and on occasion trains have been unloaded later than currently permitted. Therefore, the residents' concern about the potential noise impact is based on prior experience of the proposed activity.
44. There has been an objection from the Environmental Health Officer, who has considered the noise level predictions for Chambrai Close and concluded that the proposal would lead to significant loss of amenity for local residents at this location due to noise impacts.
45. The applicant has suggested that the proposals could be modified to bring forward the latest time for unloading to 9.00 pm, limit the number of days when there are trains unloaded after 6.00 pm to 150 a year and to accept a temporary consent for one year to allow the impact of the proposals to be fully assessed. However, the Environmental Health Officer has not provided a different consultation response and his objection still stands.
46. In my view, the unloading of trains after 6.00 pm in the evening is likely to have an impact on amenity due to noise. This is shown by the noise assessment and by complaints which have been made in the past after trains being unloaded in the evening. This impact on amenity would still occur even if the proposals were modified as the applicant suggests. The Environmental Health Officer has objected to the proposal and has interpreted the impact as representing a significant loss of amenity for local residents. Therefore, the proposals are contrary to policies which protect residential amenity, including OMWLP policy PE18, VLP policy DC9 and draft OMWCS policy C5.

Biodiversity

47. NPPF paragraph 9 states that pursuing sustainable development involves seeking positive improvements in the quality of the natural environment including moving from a net loss to achieving net gains for nature. Paragraph 109 states that the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity. NPPF Paragraph 118 states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
48. VLP 2031 Core Policy 46 states that a net loss of biodiversity will be avoided. Development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity will not be permitted unless the need for the development outweighs the adverse effect on biodiversity, it can be demonstrated that it could not be reasonably located on an alternative site and measures can be provided to avoid, mitigate or compensate the adverse effects. Species of importance to biodiversity are defined as legally protected species. The policy goes on to state that habitats and areas which are not designated can still have a significant biodiversity value within their local context and these habitats will be given due weight in determining planning applications.
49. The Ecologist Planner has objected to the application because no ecological information was submitted with the application and this information is needed in order to assess the potential impact of the use of flood lighting on wildlife such as bats and ground nesting birds. If adverse impacts leading to significant harm are identified, details of mitigation and compensation would be needed to ensure that there is no net loss in biodiversity.
50. The Ecologist Planner has identified the potential for an impact on bats, which are a legally protected species, and ground nesting birds, which are all protected whilst nesting. Therefore, further details of this potential impact are needed to assess whether the proposals would comply with VLP 2031 Core Policy 46.
51. This further information was requested from the applicant but it has not been provided. Therefore, it is not possible to assess the impacts of the development on biodiversity, not possible to establish whether impacts on biodiversity have been minimised and not possible to assess whether significant harm would result. In this circumstance, a cautious approach must be taken and planning permission should be refused as required by the NPPF.

Conclusions

52. Although rail is a more sustainable form of transport than road, the unloading of trains past the current limit of 6.00 pm has the potential to cause a noise nuisance significantly affecting residential amenity. Therefore, the proposal is not in accordance with policy aimed at protecting local amenity, including OMWLP policy PE18, VLP policy DC9 and draft OMWCS policy C5.
53. The proposal has the potential to impact ecology in the area, for example due to the use of floodlighting. As the applicant has not provided any information about the potential impacts it is not possible to assess their significance, or consider them against relevant planning policy and in the absence of this, a cautious approach must be taken and the potential for significant harm to result must be assumed.

RECOMMENDATION

- 54. It is RECOMMENDED that planning permission for application MW.0025/16 be refused for the following reasons:**
- a) The unloading of trains after 6.00 pm in the evening would cause noise impact which is likely to represent a significant loss of amenity for local residents, contrary to OMWLP policy PE18, VLP policy DC9 and draft OMWCS policy C5.**
 - b) It has not been demonstrated that the impacts of the extended hours on wildlife would not cause significant harm to biodiversity, contrary to the NPPF paragraph 118 and VLP 2031 Core Policy 46.**

SUSAN HALLIWELL

Acting Director for Environment and Economy (Strategy & Infrastructure Planning)

August 2016

ANNEX 1**European Protected Species****European Protected Species****European Protected Species (to include in Committee/Delegated reports as an Annex, not on Decision Notices)**

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2010 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely
 - a) to impair their ability –
 - i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

The around the proposed development site indicates that a European Protected Species is likely to be present. Ecological survey information was not provided to accompany the application.

The proposed development may result in an offence under the Conservation of Species & Habitats Regulations 2010.

Officers therefore have a duty to consider whether the proposal would be likely to secure a licence. To do so the proposals must meet with the three derogation tests which are:

- There are imperative reasons of overriding public interest (e.g. health and safety, economic or social)
- There is no satisfactory alternative
- The action will have no detrimental impact upon population of the species concerned e.g. because adequate compensation is being provided.

It is the applicant's responsibility to ensure that information is submitted which demonstrates compliance with these tests. In your officers opinion evidence has not been submitted to satisfactorily demonstrate that the proposal meets with the three derogation tests if European Protected Species are present and

likely to be affected. It is therefore recommended that the application be refused for the following reason:

It has not been demonstrated to the satisfaction of the LPA that the development can be undertaken without harm to a protected species. It is not considered that the benefits would avoid a net loss in biodiversity, contrary to NPPF paragraphs 9, 109 and 118.

Compliance with National Planning Policy Framework

In accordance with paragraphs 186 and 187 of the NPPF Oxfordshire County Council take a positive and proactive approach to decision making focused on solutions and fostering the delivery of sustainable development. We work with applicants in a positive and proactive manner by;

- offering a pre-application advice service, and
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions.
- In this case the applicant was aware of the need for further ecological information but did not provide this
- The applicant was also aware of the concerns of the Environmental Health Officer. Although the applicant suggested possible modifications to the proposals, the Environmental Health Officer did not remove the objection.

Appleford
Rail Sidings
Plan 1



For: PLANNING AND REGULATION COMMITTEE – 5 SEPTEMBER 2016

**By: ACTING DIRECTOR FOR ENVIRONMENT AND ECONOMY
(STRATEGY & INFRASTRUCTURE PLANNING)**

Lorry Routeing Protocol

Division Affected: All

Contact Officer: David Periam **Tel:** 01865 815151

Recommendation

The report recommends that the committee ENDORSE the lorry routeing protocol.

1. On 5 April 2016 Council unanimously resolved the following motion moved by Councillor Lilly and seconded by Councillor Mathew:

“Recent years have seen an increase in the number of planning applications received by our Planning Department for rectification of earlier inaccurate submissions and misdemeanours by various commercial organisations. Also an increased number of instances occur where operators have commenced work prior to planning permissions being issued. Road Traffic Agreements are not being correctly monitored by the organisations, and in many cases are doing nothing to rectify some obvious and blatant disregard for the Conditions and routeing agreements, that have been issued by this Authority.

We, as Councillors, regularly receive complaints from the public about such indiscretions. These then result in retrospective applications. This takes time and resources of our staff.

Council asks Cabinet to investigate and bring forward proposals for this Council to introduce a levy of financial penalties that can be imposed, for such misdemeanours. Our Officers have had to spend extra time, resources, and on some occasions, require legal opinion, to rectify these anomalies which could be controlled if the applicants themselves.

Other Councils in the UK are researching similar deterrents. So should we. Recently Ealing Borough Council successfully prosecuted a contractor for similar misdemeanours and were awarded a six figure sum as compensation plus all their legal costs.

I trust that Councillors will support this proposal.”

2. Further to that resolution, officers have prepared the draft protocol attached at Annex 1 to this report setting out a number of possible options which could be pursued with regard to a lorry routeing agreement and, if need be, an associated planning obligation or section 106 legal agreement where it is considered that the highway impacts of the proposed development would otherwise be unacceptable and refusal of permission would be justified. The consideration of which measures may be appropriate will be a matter for detailed consideration in relation to each specific planning application. Lorry routeing agreements must be freely entered into by applicants and so the County Council cannot impose any specific requirement upon them. But if it was considered by officers that a specific requirement was necessary which the applicant was not prepared to agree to then the expectation would be that the application would then be brought to this committee for its consideration.

RECOMMENDATION

It is RECOMMENDED that the Lorry Routeing Protocol set out in Annex 1 to this report be adopted.

SUSAN HALLIWELL

Acting Director for Environment and Economy (Strategy & Infrastructure Planning)

August 2016

Draft routeing Agreements Protocol:

When determining planning applications for mineral and waste developments, the impacts of associated traffic are material planning considerations. These impacts can be both technical in terms of highway safety and capacity but also in terms of the impact on the amenity of other road users, residents and the environment. Development which may be considered to have adverse highway impacts which would otherwise warrant planning permission being refused may be made acceptable through the applicant and the County Council as Mineral and Waste Planning Authority (MPA) entering into a vehicle routeing agreement to require that vehicles be routed so as to avoid certain roads, possibly at all times or possibly at certain times of day e.g. to avoid conflict with peak hour traffic and/or arrivals and departures at school opening and closing times. Such routeing agreements must be freely entered into by the applicant.

Where such a routeing agreement is entered into, it would be expected that the applicant would police compliance with it and take appropriate action against any drivers who failed to comply with its terms. For example, a common approach would be to give one warning for the first proven breach and then to dismiss the driver or ban them from visiting the site following a second proven breach. Nonetheless, the MPA may still require to undertake its own monitoring for compliance, particularly following ongoing complaints of breaches such that it can then raise these with the site operator for the appropriate action to be taken. Such monitoring by its nature can be both time-consuming and costly. It is therefore considered that it is reasonable for the site operator to bear some of the cost of such monitoring.

When entering into routeing agreements, the applicant will be asked to commit either within the routeing agreement or through an associated planning obligation or legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 as amended, to one or more of the following as the MPA may consider appropriate depending on the specific site circumstances:

- 1) To hand a leaflet or notice to all drivers visiting the site for the first time, both those in the applicant's or other site operators' employment and third parties, informing them of the requirements of the routeing agreement and instructing them that failure to comply will result in an initial warning for the first breach and then a ban from the site following a second breach.
- 2) To provide all vehicles in the control of the applicant or other site operator with a Global Positioning System tracking device, and to require that the vehicles of any contractors are similarly provided, and to make the records of all vehicles so equipped available to the MPA upon request.

- 3) To install closed circuit television cameras at the site entrance or entrances to record the directions from which vehicles enter and leave the site and to provide recorded footage to the MPA upon request.
- 4) To provide an index-linked sum to cover the cost of traffic surveys to be undertaken on behalf of the MPA.
- 5) To commit to the full funding of any additional surveys which the MPA may consider necessary following the receipt of substantiated complaints with regard to breaches of the routeing agreement.
- 6) To recover the full reasonable costs of the MPA monitoring compliance with the routeing agreement following substantiated complaints, including officers' time.

PLANNING & REGULATION COMMITTEE – 5 SEPTEMBER 2016

POLICY ANNEX (RELEVANT DEVELOPMENT PLAN AND OTHER POLICIES)

Oxfordshire Minerals and Waste Local Plan 1996 – Saved Policies

POLICY PE18: IMPOSITION OF CONDITIONS TO PROTECT AMENITY

In determining applications covered by this Plan the County Council will:

- (a) have regard to the appropriate provisions of the Code of Practice in Annex 1, which is part of this Plan; and
- (b) regulate and control development by the imposition of conditions on the grant of permission. Where this cannot satisfactorily be done, appropriate planning obligations will be sought.

Oxfordshire Minerals and Waste Local Plan Core Strategy – Proposed Submission Document

POLICY C1: SUSTAINABLE DEVELOPMENT

A positive approach will be taken to minerals and waste development in Oxfordshire, reflecting the presumption in favour of sustainable development contained in the National Planning Policy Framework and the aim to improve economic, social and environmental conditions of the area.

Planning applications that accord with the policies in this plan will be approved, unless material considerations indicate otherwise. Where there are no policies relevant to the application, or relevant plan policies are out of date, planning permission will be granted unless material considerations indicate otherwise, taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the National Planning Policy Framework; or
- specific policies in the National Planning Policy Framework indicate that the development should be restricted.*

**For example, those policies relating to sites protected under the Birds and Habitats Directives (NPPF paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.*

POLICY C5: LOCAL ENVIRONMENT, AMENITY AND ECONOMY

Proposals for minerals and waste development shall demonstrate that they will not have an unacceptable adverse impact on:

- the local environment;
- human health and safety;
- residential amenity and other sensitive receptors; and
- the local economy;

including from:

- noise;
- dust;
- visual intrusion;
- light pollution;
- traffic;
- air quality;
- odour;
- vermin;
- birds;
- litter;
- mud on the road;
- vibration;
- surface or ground contamination;
- tip and quarry-slope stability;
- differential settlement of quarry backfill;
- subsidence; and
- the cumulative impact of development.

Where necessary, appropriate separation distances or buffer zones between minerals and waste developments and occupied residential property or other sensitive receptors and/or other mitigation measures will be required, as determined on a site-specific, case-by-case basis.

POLICY C10: TRANSPORT

Minerals and waste development will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Route Maps in ways that maintain and, if possible, lead to improvements in:

- the safety of all road users including pedestrians;
- the efficiency and quality of the road network; and
- residential and environmental amenity, including air quality.

Where development leads to a need for improvement to the transport network to achieve this, developers will be expected to provide such improvement or make an appropriate financial contribution.

Where practicable minerals and waste developments should be located, designed and operated to enable the transport of minerals and/or waste by rail, water, pipeline or conveyor.

Where minerals and/or waste will be transported by road:

- a) mineral workings should as far as practicable be in locations that minimise the road distance to locations of demand for the mineral, using roads suitable for lorries, taking into account the distribution of potentially workable mineral resources; and
- b) waste management and recycled aggregate facilities should as far as practicable be in locations that minimise the road distance from the main source(s) of waste, using roads suitable for lorries, taking into account that some facilities are not economic or practical below a certain size and may need to serve a wider than local area.

Proposals for minerals and waste development that would generate significant amounts of traffic will be expected to be supported by a transport assessment or transport statement, as appropriate, including mitigation measures where applicable.

POLICY M6: AGGREGATE RAIL DEPOTS

The following rail depot sites are safeguarded for the importation of aggregate into Oxfordshire:

- Hennef Way, Banbury (existing facility);
- Kidlington (permitted replacement facility);
- Appleford Sidings, Sutton Courtenay (existing facility);
- Shipton on Cherwell Quarry (permitted facility);
- and any other aggregate rail depot sites which are permitted, as identified in the Annual Monitoring Report.

Permission will be granted for new aggregate rail depots at locations with suitable access to an advisory lorry route shown on the Oxfordshire Lorry Route Maps (policy C10) and that meet the criteria in policies C1 – C11.

Safeguarded rail depot sites will be identified in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document.

Proposals for development that would directly prevent or prejudice the use of a safeguarded rail depot site for an aggregates rail depot will not be permitted unless:

- a suitable alternative rail depot site can be provided; or
- it can be demonstrated that there is no longer a need for the site to be safeguarded for aggregate rail depot use.

Proposals on land near to a safeguarded rail depot site for development sensitive to disturbance from, and which would indirectly prevent or prejudice the operation or establishment of, an aggregate rail depot at the safeguarded site will not be permitted unless:

- the development is in accordance with a site allocation for development in an adopted local plan or neighbourhood plan; or
- a suitable alternative aggregate rail depot site can be provided; or

- it can be demonstrated that the safeguarded rail depot site is no longer needed for Oxfordshire's aggregate supply requirements.

Vale of White Horse Local Plan 2011

POLICY DC9: IMPACT OF DEVELOPMENT ON NEIGHBOURING USES

Development will not be permitted if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of:

- i) loss of privacy, daylight or sunlight;
- ii) dominance or visual intrusion;
- iii) noise or vibration;
- iv) smell, dust, heat, gases or other emissions;
- v) pollution, contamination or the use of or storage of hazardous substances; and
- vi) external lighting.

Draft Vale of White Horse Local Plan 2031

CORE POLICY 1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

Planning applications that accord with this Local Plan (and where relevant, with any subsequent Development Plan Documents or Neighbourhood Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, and unless:

- i. any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, or
- ii. specific policies in that Framework indicate that development should be restricted.

CORE POLICY 46: CONSERVATION AND IMPROVEMENT OF BIODIVERSITY

Development that will conserve, restore and enhance biodiversity in the district will be permitted. Opportunities for biodiversity gain, including the connection of sites, large-scale habitat restoration, enhancement and habitat re-creation will be actively sought, with a primary focus on delivery in the Conservation Target Areas. A net loss of biodiversity will be avoided.

The highest level of protection will be given to sites and species of international nature conservation importance (Special Areas of Conservation and European Protected Species). Development that is likely to result in a significant effect, either alone or in combination, on such sites and species will need to satisfy the requirements of the Habitat Regulations*.

**Habitats Directive 92/43/EEC of 21 May 1992*

Development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or of importance for geological conservation interests, either directly or indirectly, will not be permitted unless:

- i. the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;
- ii. it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests; and
- iii. measures can be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for the adverse effects likely to result from development.

The habitats and species of importance to biodiversity and sites of geological interest conserved in relation to points i. to iii. Comprise:

- Sites of Scientific Interest (SSSI)
- Local Wildlife Sites
- Local Nature Reserves
- Priority Habitats and species listed in the national and local Biodiversity Action Plan
- Ancient Woodland and veteran trees
- Legally Protected Species
- Locally Important Geological Sites.

The level of protection and mitigation should be proportionate to the status of the habitat or species and its importance individually and as part of a wider network.

It is recognised that habitats/areas not considered above (i.e. Nationally or Locally designated and not priority habitats) can still have a significant biodiversity value within their local context, particularly where they are situated within a Conservation Target Area and/or they have good potential to be restored to priority habitat status or form/have good potential to form links between priority habitats or act as corridors for priority species. These habitats will be given due weight in the consideration of planning applications. If significant harm to these sites cannot be avoided (through locating on an alternative site with less harmful impacts) it will be expected that mitigation will be provided to avoid a net loss in biodiversity or, as a last resort, compensation will be required to offset the impacts and achieve a net gain in biodiversity.

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