

For: PLANNING AND REGULATION COMMITTEE – 19 OCTOBER 2015

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

Development Proposed:

Change of Use of Agricultural Barns to Topsoil storage and screening for Topsoil business, a new lean-to 10 x 30m barn and new farm access for Barford Road Farmhouse

Division Affected: Wroxton and Hook Norton

Contact Officer: Kevin Broughton **Tel:** 01865 815272

Location: Barford Road Farm, Barford Road, South Newington, Oxfordshire, OX15 4JJ.

Applicant: Mr Simon Hambidge

Application No: MW.0080/15 District ref No: 15/01266/CM

District Council Area: Cherwell District Council

Date Received: 23 June 2015

Consultation Period: 2 July – 23 July 2015

Recommendation:

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• **Part 1 – Facts and Background**

Location (see site plan Annex 1)

1. Barford Road Farm is located to the east of South Newington, a small village on the A361 about midway between Banbury and Chipping Norton.
2. The site is just under a kilometre east of the A361 along the Barford road which is a narrow country lane.
3. The site is in an Area of High Landscape Value.

Site and Setting (see site plan Annex 1)

4. The site is currently occupied by a barn structure, outbuildings, and car and plant parking. 30m to the north and east is a house and garden in the ownership of the applicant. Open fields lie beyond that.
5. To the south is Barford Road, a narrow unclassified road between South Newington and Barford St John and Barford St Michael. Open fields lie beyond that.
6. To the West is an open field with the village of South Newington beyond. The nearest house, other than that in the ownership of the occupant is 260m to the west.
7. There is an established hedge along the southern boundary with Barford Road, and inside that are piles of soil. At the western side of the site there is an area of rough ground which is where the proposed extension to the barn would go, beyond which are piles of soil and rough ground.
8. The existing barn is on open sided structure. It is constructed of red coloured steel supports and corrugated steel roof. Within it there is a screening plant, and to the east of it is a prefabricated temporary building used as an office.

Planning History

9. The site has been the subject of Certificate of Lawful Use Applications for storage of topsoil, and the import, storage and sale of topsoil. Both were refused, the latest of which was on 4th February 2003. There are two outstanding enforcement notices on the site: ENF 37/99 dated 30 November, and ENF1/99 dated 21 July 1999.
10. The applicant states that the business has been on the site for the last 32 years, but the refusal of the Certificate of Lawful Use applications show that this use has not been established, indeed cannot have been granted a Certificate of Lawful Use where there is an outstanding

Enforcement Notice.. The applicant then goes on to say that up until recently the business was a relatively small operation but has recently begun to grow and flourish.

Details of the Development

11. The proposed development is partly retrospective and involves both change of use and operational development.
12. The change of use is the retrospective change from agricultural barns to a topsoil screening operation in an existing steel portal barn. The buildings are made up of one large 30m x 24m barn joined by a lean-to roof with an 8m wide span from this barn to the original 10 x 30 metre barn to the east of it. This application proposes a new lean-to 10 x 30 metre barn adjoining the west side of the main barn. This would give a total barn size of 30m x 52m that is just under 8m at the highest point. The total storage capacity would be 5,000 tonnes. There is also a transportable building used as an office building, a container and ancillary storage of plant and equipment.
13. Soils would be brought to site where they would be graded and screened down to 10mm standard, and have the stones removed. The current machinery used on the unauthorised operation is a screener, two JCB4CX's, one 360° excavator, two trailers and one tractor for moving trailers around site. Water sprinkling is used to control dust. The soils handled to not create odours.
14. The topsoil would be sold to order and delivered by the business to the end user or landscape garden businesses. In addition to general garden topsoil, topsoil would be mixed with compost for a variety of garden uses.
15. Stones which do not pass through the screener would be used by the applicant's driveway repairs business.
16. The screening operation would operate between the hours of 07:30 to 17:30 Monday to Friday and 08:00 to 14:00 on Saturday.
17. There would be an average of three deliveries and three collections per day from lorries with a maximum capacity of 20 tonnes. In addition there would be an average of two to three movements a day for smaller customer vehicles collecting from the site plus eight staff car movements one at the beginning and one at the end of the day. There are five members of staff, seven car parking spaces and two spaces for parking the site operational vehicles.
18. A new access for the adjoining house would be created to separate it from the joint access with the topsoil operation.

19. A belt of native tree planting is proposed to screen the western elevation of the proposed extended barn. Applicants have been asked for further details of the bund dimension and materials, and I will update committee at the meeting.

• **Part 2 – Other Viewpoints**

Representations

20. There have been three third party representations that raise the following points that are material to the application.
- Roads around the site are unsuitable for HGVs.
 - Mud is left on the road from the wheels and from spillage.
 - Noise from the soil grading machines and the reversing beepers.
 - The bund mentioned in the Design and Access Statement has not been constructed.
 - The business operates outside the hours of operation proposed in the application.
 - The verge opposite the site has been destroyed by vehicles entering and leaving. Other verges are also damaged.
 - The applicant has not included tractor and trailer movements in the application.
 - The applicant gives the capacity of the site but not the throughput.
 - The following conditions should be attached if the application were to be approved:
 - Operating hours on Saturday restricted to between 08.00 and 12.00.
 - Wheel washing equipment to be installed.
 - Vehicles should not go through South Newington or pass St Peter's Close.
 - The bund should be properly positioned.
 - Improvements to road verges.
 - Screening on the site on all sides.
 - The extension to the building will allow more activity on the site.
 - There is very little screening to the site.
21. There were also comments that are not material to the decision.
- One response asks why should planning permission be granted now when it had been refused twice in the past (01/01297/CLUE and 00/02379/CLUE). These are references to Certificate of Lawful Use applications which are considerations of evidence that a use has taken place and not an assessment of planning merit.
 - It was pointed out that condition 4 of planning permission 07/01369/F had not been complied with. That permission was granted by the District Council and would be a matter of enforcement for them.

Consultations

22. Cherwell District Council – no objection subject to conditions requiring the compliance with the application and restricting the hours of operation to 08.00 to 18.00 Monday to Friday, and 09.00 to 16.00 on Saturdays.

23. South Newington Parish Council – objects for the following reasons
 - The roads are not suitable for regular use by HGVs or tractor trailer combinations.
 - Mud on the road will be dangerous to cars and pedestrians.
 - Noise from reversing beepers.

These issues have increased as the business has developed and the use has now outgrown the site which is in an Area of High Landscape Value. This extension in the open countryside should be resisted if there are alternative sites available. If permission is granted, the following conditions should be included:

 - Restriction on number of vehicle movements per day.
 - Limit the storage of materials on site.
 - Ensure vehicles are cleaned before leaving the site and that mud is cleared from the road if it occurs.
 - Operating hours to be limited to that in the Design and Access Statement.

24. Barford St John & St Michael Parish Council – Raised the following concerns:
 - Cannot find any reference to the number of additional traffic movements to and from the site if the application were to be granted.
 - Lorries going through the village to get to the site.
 - If site is used for mulching green waste, odours might affect the village.

25. Transport Development Control – no objection at current level but would have concerns if the development intensified. The verge on the opposite side of the road to the existing access has been damaged and a S.278 agreement is required to secure improvements to the verge. The residential access would also need to be the subject of a S.278 agreement.

26. Environment Agency – no comment to make on this application.

27. Natural England - No comments but if at any stage the development would have an impact on protected species they have standing advice that we should use.

28. County Archaeologist – no archaeological constraints on the site.

29. County Ecologist / Planner – no objections subject to conditions:

- No works of site clearance or development shall be carried out other than in accordance with the recommendation in paragraph 5.7 of the Phase 1 Habitat Survey (Ecoconsult Ltd, September 2015) in relation to carrying out site clearance works outside the main bird nesting season. The main nesting season is generally March to August.
- No works of construction shall take place unless or until a scheme for the native species hedgerow and tree planting is submitted and approved. Any scheme that is approved shall be implemented in the planting season immediately following the approval in writing of that scheme.
- If works do not commence within one year of the date of consent, or of the latest updated surveys approved in writing by the Waste Planning Authority, then no works of site clearance, demolition or construction shall take place unless or until an updated survey for reptiles and badgers has been submitted to and approved. No works shall be carried out other than in accordance with the approved scheme.

Part 3 – Relevant Planning Documents

Relevant planning policies (see Policy Annex to the committee papers)

30. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.

The relevant development plan documents are:

- The Oxfordshire Minerals and Waste Local Plan 1996
 - Cherwell Local Plan 2011-2031 Part 1
31. The Draft Oxfordshire Minerals and Waste Local Plan Core Strategy (OMWCS) has been out to consultation. This document is now at a more advanced stage of preparation and as such further weight can be given to the policies it contains. At the meeting of the full County Council on 24 March 2015, the OMWCS was approved for publication and submission to the Secretary of State for independent examination following consideration of any representations received. Therefore, it is appropriate to consider draft policies which are relevant to the development.
32. The Government's National Planning Policy Framework (NPPF) and the National Policy for Waste (NPPW) are material considerations in taking planning decisions.

Relevant Policies

33. Oxfordshire Minerals and Waste Local Plan 1996 - Saved Policies (OMWLP):

Policy W3 – Proposals for reuse / recycling.

Policy W4 – Proposals for reuse / recycling in the open countryside.

Policy W5 – Screening of waste sites.

Policy PE18 – In determining applications the County Council will have regard to the code of practice and attach suitable conditions.

Cherwell Local Plan 2011-2031 Part 1 (CLP):

Policy PSD1 – Presumption in favour of sustainable development.

Policy SLE1 – Employment development.

Policy ESD 10 - Protection and enhancement of biodiversity and the natural environment.

Policy ESD 13: Local landscape protection and enhancement

34. Other Material Considerations:

Oxfordshire Minerals and Waste Local Plan Core Strategy – Proposed Submission Document (OMWCS):

Policy W1 – Oxfordshire Waste to be Managed

Policy W2 – Oxfordshire Waste Management Targets

Policy W3 – Provision for waste management capacity and facilities required

Policy W4 – Locations for facilities to manage the principal waste streams

Policy W5: Siting of waste management facilities

Policy C1 – Sustainable development

Policy C5 – Local Environment, Amenity and Economy

Policy C7 – Biodiversity and Geodiversity

Policy C8 – Landscape

Policy C10 – Transport

National Planning Policy for Waste (NPPW)

National planning Policy Framework (NPPF)

• Part 4 – Analysis and Conclusions

Comments of the Deputy Director (Strategy and Infrastructure Planning)

35. Policy C1 of the OMWCS states that a positive approach will be taken to minerals and waste development. Policy PSD1 of the CLP states that when considering development proposals, a proactive approach will be taken to reflect the presumption in favour of sustainable development in the NPPF.

36. The main issues in relation to this development are location and transport, effect on local amenity and landscape, and need and scale of the development.

Location and Transport

37. Policy W3a) of the OMWLP states that proposals for re-use and recycling will be permitted if the site is located close to the source of waste or the market for the recycled material.
38. The site has been operating for many years serving the local markets, albeit that the development is unauthorised. There is little evidence in the application as to precisely where the source of waste and local market is, but the transport links and small scale mean that the site is unlikely to be used for wider markets.
39. Policy W3b) states that proposals for re-use and recycling will be permitted if the site is well located to appropriate parts of the highway network.
40. The site is relatively close to an A class road, but the access to that road is via a narrow country lane which has on it some housing and associated parking.
41. Policy W4 of the OMWLP states that proposal for re-use/recycling and ancillary processes will not normally be permitted in the open countryside unless there is an established overriding need and there is no other suitable site available. Policy W4 of the OMWCS states that in remote rural areas, facilities should be small scale and in keeping with their surroundings. Policy W5 states that priority will be given to locating waste management facilities in, amongst other places, existing agricultural buildings and their curtilages.
42. Policy SLE1 of the CLP states that unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of Category A settlements, which does not include South Newington. It then goes on to say that new employment proposals will be supported if they meet certain criteria including sufficient justification as to why the development should be located in the rural area, are small scale, have no adverse impact on the village or surrounding environment, would not give rise to excessive or inappropriate traffic, and that there are no suitable employment sites nearby.
43. Paragraph B36 in the CLP states that employment growth in the rural area will be limited and will involve among other things farm diversification schemes. Although this is not policy it is material in that it gives guidance as to the intention of the policy.

44. Policy C10 of the OMWCS states that waste developments will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Route Maps.
45. The proposed development would be a relatively small scale development operating 6 lorries per day on average, i.e. twelve lorry movements. This would not be out of keeping with a rural farming operation, and would not be excessive for the short distance between the site and the A361. I do not consider it would have an adverse effect on the open countryside and there is a need for such facilities for inert waste recycling as set out below.
46. Concern was raised that tractor and trailer movements were not included in the application. These would be for local traffic and would be normal for a rural agricultural operation.
47. Section 278 agreements would be needed for both the access to the topsoil operation and the new residential access. Permission should not be granted until improvements to the existing access are carried out. The proposed second access should not be constructed until the S.278 for that access is completed. Once the new access is brought into use there would need to be a condition that prevents the use of the new access for use by the traffic from the topsoil operation.
48. The location would be acceptable for a small scale rural diversification scheme, but should intensification take place the location would not be suitable for a waste operation that generates a large number of vehicle movements. The application would be acceptable subject to a condition restricting HGV movements to no more than 12 (6 in, 6 out) per day.

Effect on the Local Amenity and landscape

49. Policy W5 of the OMWLP seeks to see waste treatment plant properly screened. Policy PE18 of the OMWLP states that in determining applications, the County Council will have regard to the Code of Practice contained in Annex 1 of the plan.
50. The Code of Practice states that hours of operation shall be 07.00 to 18.00 on weekdays, and 7.00 to 13.00 on Saturdays. The applicant's proposed working hours are largely within those hours but are proposed until 14.00 hours on Saturdays . I have asked the applicant to amend the proposed hours to reflect the Code of Practice and will update the committee meeting on this.
51. The Code of Practice says that noise emanating from waste disposal sites should be restricted to limit the detrimental effect on dwellings and other noise sensitive properties. This is reinforced by policy C5 of the OMWCS which states that proposals shall demonstrate that they will not have an unacceptable adverse noise impact.

52. The nearest house that is not in the ownership of the applicant is 260m to the west of the application site. A condition controlling the noise levels from the site should be attached to any condition given.
53. Dust and odours are part of the Code of Practice and are also required not to have an adverse impact by policy C5 of the OMWCS.
54. The distance of the development from the nearest dwelling, and the nature of material are such that the development would not be likely to have a significant effect on the amenity of local houses through odour or dust, and no comments were received from the District Council's Environmental Health Officer. Water sprinkling is already carried out to lay any dust and this could be required by planning condition.
55. Policy C5 of the OMWCS also requires developments not to have an impact in terms of visual intrusion and light pollution. The applicant has proposed a bund that would mitigate these issues and further mitigate noise and dust issues. This should be conditioned to be constructed prior to the extension of the building.
56. Policy C8 of the OMWCS state that proposals for minerals and waste development should respect and where possible enhance local landscape character. This is also reflected in policy ESD13 of the CLP which states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside.
57. The proposed development would be well screened from the road and from the countryside to the north. It would be clearly visible to the neighbouring house that is owned by the applicant but other than that it would appear as just a barn in the rural countryside. A bund and planting are proposed to the west of the site to screen it from the village.
58. Policy C10 of the OMWCS states that development should maintain the safety of all road users. Mud on the road was raised as an issue, and in order to mitigate this, details of wheel cleaning should be required by condition.
59. With appropriate conditions the development would not have an unacceptable effect on landscape or the amenity of the local area.

Need and Scale of the Development

60. Policy W1 of the OMWCS states that provision will be made for waste management facilities to allow Oxfordshire to be self sufficient in dealing with its waste. Policy W2 of the OMWCS sets out the targets for recycling that needs to be achieved. Table 7 of the OMWCS shows that there is sufficient inert waste recycling at the moment, but there is expected to be a shortfall of over 120,000 tonnes per annum by 2031.

61. The applicant has said that the average number of HGV collection and deliveries is 3 deliveries and 3 collections per day (twelve movements). The annual throughput would be 18 to 20,000 tonnes per annum. This is defined in table 8 of the OMWCS as a small scale operation and given support in more remote rural areas by OMWCS policy W4. It would not significantly affect the overall shortfall of inert waste recycling, it would however contribute to the facilities needed.
62. Should planning permission be granted for the development, a condition should be added restricting it to no more than 20,000 tonnes per annum to ensure that it remains a development considered to be small scale.

Other Issues

63. Policy ESD10 of the CLP seeks to improve biodiversity, and amongst other things states that proposals the result in a loss of biodiversity will not be permitted. Policy C7 of the OMWCS states that the development should conserve, and where possible, deliver a net gain in biodiversity. The applicant submitted a phase 1 Habitat Survey. Based on this the County Ecologist / Planner had no objections subject to conditions that no works of site clearance or development shall be carried out other than in accordance with the recommendation in paragraph 5.7 of the Phase 1 Habitat Survey; that development take place outside the bird nesting season; that no works take place until a planting scheme is submitted; and that if works do not commence within one year, an updated survey be carried out.
64. The development has already partly taken place and so the conditions would need to be linked to operational development to be carried out, but in principle the conditions should be applied to a permission if given.

Conclusion

65. The proposed development would be acceptable at its current scale as a rural diversification scheme, but the site should be protected from intensification by suitable conditions. Subject to conditions as discussed above, the development would not cause significant harm to the local amenity, or to biodiversity. Currently there is no necessity for the development in order to meet current inert recycling targets but it would contribute to meeting the County's future need. In line with the proactive approach and the presumption in favour of sustainable development, the application should be permitted subject to section 278 of the Highways Act agreements concerning access and highway improvements.

RECOMMENDATION

66. It is **RECOMMENDED** that subject to a 278 Agreement for the improvements to the road verge opposite the existing site entrance being entered into within three months of the grant of planning permission and the works being carried out within six months of the grant of planning permission that planning permission for application no. MW.0080/15 be approved subject to conditions to be determined by the Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) but to include the following:

- i) Development to be carried out in accordance with the application;
- ii) No more than 12 HGV movements per day;
- iii) The business operates between the hours of 07:30 to 17:30 Monday to Friday and 08:00 to 13:00 on Saturday. No operating to take place on Sundays or Bank Holidays;
- iv) Noise condition;
- v) Bund to be constructed prior to the permitted operational development taking place;
- vi) Development to be carried out in accordance with paragraph 5.7 of Phase 1 Habitat Survey;
- vii) No operational works to take place until a planting scheme has been submitted and approved;
- viii) Planting to be carried out in the next planting season;
- ix) The new residential access shall not be constructed until a S.278 agreement for the construction of the access has been completed;
- x) The new residential access shall be used only for the purpose of access to the adjoining house.
- xi) Details of wheel cleaning measures to be submitted and approved.
- xii) Details of dust suppression measures to be submitted and approved.
- xiii) Throughput of the site must not exceed 20,000 tonnes per annum.

BEV HINDLE

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

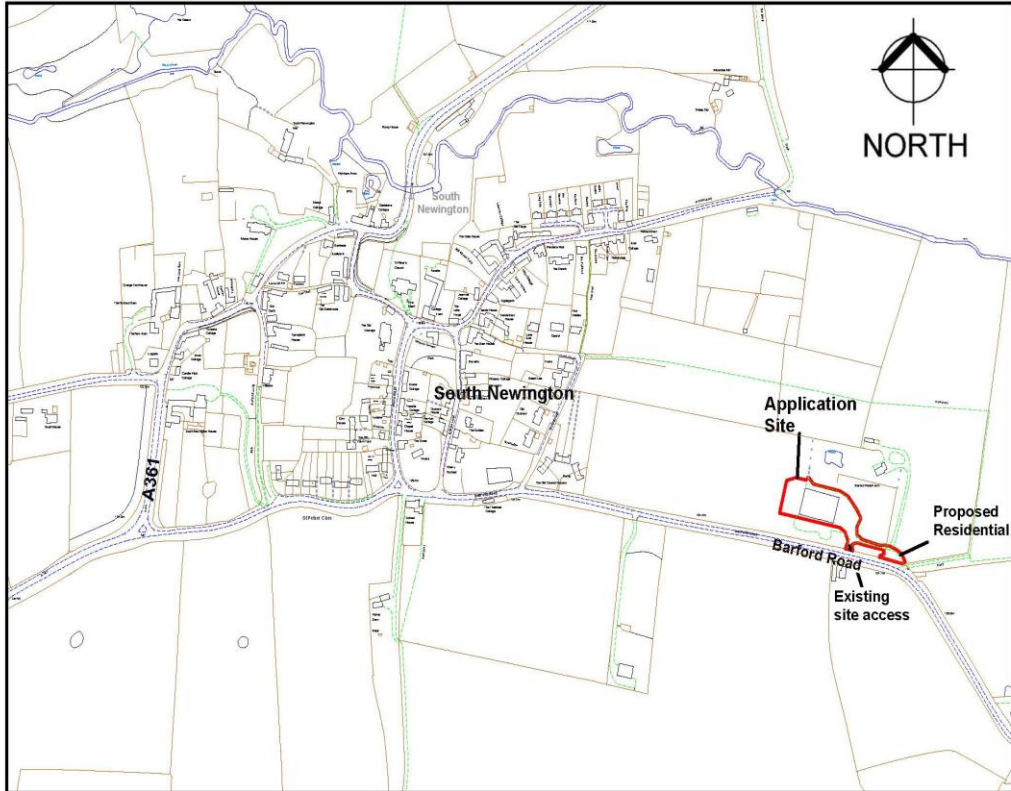
October 2015

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. In this case the applicant did not take advantage of the opportunity. Any issues that occurred during the processing of the application were raised with the applicant and this led to improvements rendering the development acceptable. The applicant was informed of a holding objection from the County Ecologist / Planner, but was able to overcome this with the completion of a Phase 1 Habitat Survey.

Application no. MW.0080/15 Barford Road Farm



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