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PLANNING & REGULATION COMMITTEE – 6 DECEMBER 2010

APPLICATION 1

APPLICATION TO CONTINUE DEVELOPMENT WITHOUT COMPLYING WITH CONDITION A3 OF PLANNING PERMISSION REFERENCE APP/U3100/A/06/2030592 (EXTENSION TO FINMERE QUARRY TO EXTRACT SAND AND GRAVEL FROM LAND SOUTH-WEST OF FINMERE, INCLUDING THE RELOCATION OF PLANT AND RESTORATION OF THE QUARRY USING IMPORTED INERT WASTE TO AGRICULTURE, WOODLAND AND GRASSLAND AT FINMERE QUARRY LANDFILL, BANBURY ROAD, FINMERE, MK18 4AJ) FOR AN EXTENSION OF THE LIFE OF THE DEVELOPMENT OF THE CONSENTED EXTENSION TO FINMERE QUARRY

APPLICATION 2

APPLICATION TO CONTINUE DEVELOPMENT WITHOUT COMPLYING WITH CONDITION B3 OF PLANNING PERMISSION REFERENCE APP/U3100/A/06/2030619 (EXTRACTION OF SAND, GRAVEL AND CLAY FROM LAND SOUTH OF THE CURRENT FINMERE QUARRY LANDFILL FACILITY FOR USE AT THE SITE FOR LANDFILL ENGINEERING AT FINMERE QUARRY LANDFILL, BANBURY ROAD, FINMERE, MK18 4AJ) FOR AN EXTENSION OF THE LIFE OF THE DEVELOPMENT OF THE CONSENTED EXTENSION TO FINMERE QUARRY

Report by Interim Head of Sustainable Development

Location: Finmere Quarry, Finmere, Oxfordshire

Applicant: Premier Aggregates Ltd.

Application No: 10/01516/CM (Application 1) & 10/01515/CM (Application 2)

District Council Area: Cherwell

Introduction

1. In 2007 two planning permissions were granted, on appeal, for mineral extraction at Finmere Landfill quarry complex. The first of these was for sand and gravel extraction on land to the southwest of the existing landfill (reference number APP/U3100/A/06/2030592). The second was for sand, gravel and clay extraction on land to the south of the existing landfill (reference number APP/U3100/A/06/2030619). These permissions have not yet been implemented. Both permissions had conditions attached requiring a start date within three years. Consent has now been granted (in November this year under delegated powers) to extend the period for commencement (by a further 3 years). Accordingly the proposals that are the subject of this report seek to extend the end date of the existing permissions by 3 years for application 1 and 5 years for application 2 respectively.

Location

2. Finmere Quarry landfill site is located some 7 miles north of Bicester in the north-east of Oxfordshire adjacent to the boundaries with Northamptonshire and Buckinghamshire.

The Site and Its Setting (Plan 1)

3. The application sites are located within and adjacent to the existing sand and gravel quarry at Finmere which is accessed from the A421 which runs east-west to the north of the site. The site lies within an Area of High Landscape value within a predominantly agricultural and countryside setting.
4. Finmere village lies 450 m to the north east with the closest individual property being Widmore Farm, immediately to the west of the application site 1; Foxley Fields Farm bungalow some 220m to the north of application site 2 (owned by the applicant) and Boundary Farm 180m to the southeast of application site 2.
5. There are a number of public rights of way in the vicinity of and crossing the site. Bridleway 7 runs from Finmere in a generally southerly direction to the south of Foxley Farm. Bridleway 4 runs from Widmore Farm to Finmere.

Background Information and History

6. The quarry was originally granted planning permission for sand and gravel extraction, on appeal, on 12 July 1993 (ref: APP/U3100/A/91/CHS 511/90 182742). Since that time planning permission has been granted for infilling with industrial and commercial waste (April 1998) and in July 2005 this planning permission was varied to continue the development and increase the height of the landfill.
7. The two mineral extraction sites were originally granted planning permission (again on appeal) in October 2007. Both permissions have yet to be implemented due to the effects of the economic recession and the stalled progress of landfill operations during 2007 - 2009. Planning permission has

just been granted (in November 2010) to extend the period for commencement of the development by a further 3 years.

Details of the Development

Application 1: Sand and Gravel Extraction, Land South-West of Finmere Quarry

8. Preparatory works for mineral extraction were due to be carried out at this site in 2008 with mineral extraction anticipated to commence in 2009. The applicant states that there are two reasons for delays in this process: firstly that negotiation with the landowner was delayed and secondly that the company was hit by the economic recession. The applicant states that they now anticipate preparatory works commencing at the site in 2011. This proposal therefore seeks to allow an extension to the end date of mineral extraction (by 3 years) to take account of the failure to commence working within the originally agreed 3 year start date.
9. Condition A3 of planning permission APP/U3100/A/06/2030592 currently states:

Extraction of minerals shall cease by 31 December 2013 and deposit of waste shall cease by 31 December 2015.

10. The applicant is seeking the following modification to Condition A3:

Extraction of minerals shall cease by 31 December 2016 and deposit of waste shall cease by 31 December 2018.

Application 2: Sand, Gravel & Clay Extraction, Land South of Finmere Quarry

11. Sand, gravel and clay extraction for this site was due to start in 2007 progressing alongside the existing landfill operations. The materials are to be used for cell engineering within the adjacent landfill. Landfill operations ceased from 2007 to 2009 and so the need for the materials for engineering of landfill cells has not yet arisen. The applicant states that the need for the minerals by the adjacent landfill development still remains and mineral extraction is planned to recommence in mid-2011. The applicant is therefore applying to extend the date for the cessation of mineral extraction until 2017 (an additional 5 years) with a restoration to be completed by 2019.
12. Condition B3 of planning permission APP/U3100/A/06/2030619 currently states:

Extraction of minerals shall cease by 31 December 2012, deposit of quarry reject material materials shall cease by 31 December 2013 and restoration shall be completed by 31 December 2014. Buildings, plant and machinery to which this permission relates shall be removed by 31 December 2014.

13. The applicant is seeking the following modification to Condition A3:

Extraction of minerals shall cease by 31 December 2017, deposit of quarry reject materials shall cease by December 2018 and restoration shall be completed by 31 December 2019.

Consultation Responses and Third Party Representations

(21 day consultation period expired 28 October 2010)

Cherwell District Council

14. No objection subject to a similar time limit to be retained for restoration.

Finmere Parish Council

15. Object since the continued “drip-feed” of extensions is wholly inappropriate for a site that was originally due to close in 2007. The applications run contrary to OMWLP policy W7 which relates to the timeliness of restoration of a site after works have commenced.

Newton Purcell Parish Council

16. No objection as long as they stay within the height limits specified.

Thames Water

17. No response received.

Environment Agency

18. No objection.

Natural England

19. No objection.

County Rights of Way Officer

20. MW.0140/10 – Temporary diversion of Finmere Bridleway 7 would need to be extended in line with the revised end date.

21. MW.0142/10 – Temporary diversion of Finmere Bridleway 4 and Bridleway 7 would need to be extended in line with the revised end date.

County Ecologist Planner

22. No objections to either of these proposals from a biodiversity or landscape point of view.

County Archaeologist

23. No objection

Transport Development Control

24. No objection.

Representations

25. One letter has been received that raises the following concerns:
- Previous commitments made by the applicant to gain further permissions have not yet been adhered to.
 - All planning applications in the vicinity of the potential route for High Speed Rail (HS2) to be postponed until after the final route decision is made.

Relevant Development Plan and other Policies

26. Development should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
27. The Development Plan for this area comprises the saved policies of the Oxfordshire Structure Plan, Oxfordshire Mineral and Waste Local Plan (OMWLP) and Cherwell Local Plan 1996 (CLP) and Non-Statutory Cherwell Local Plan (NSCLP) .
28. The South East Plan (SEP) also formed part of the Development Plan prior to July 2010. However, in July 2010 the Secretary of State (SOS) revoked Regional Strategies which included the SEP. A recent judgement in the High Court in favour of CALA Homes (who challenged the decision of the SOS) means that the SEP remains in force for the time being though the Secretary of State has still expressed his intention to abolish regional plans through the process of the Localism Bill.
29. The government guidance in Mineral Policy Statement (MPS1) is also material to consideration of the proposal.
30. All relevant policies are listed in the policy annex (Item 7). Key policy considerations are whether there is still a need for these minerals and whether extending the end dates of the existing planning permissions is acceptable subject to satisfactory restoration.
31. In terms of need for the mineral government guidance in MPS1, SEP policy M3 and OMWLP policy SD1 and SD5 is relevant. For environmental and amenity impacts, policies to be considered include ENV1 of Cherwell Local Plan (CLP) and Policy EN34 of Non-Statutory Cherwell Local Plan (NSCLP). For restoration of the sites policy PE13 of OMWLP is applicable.

Comments of the Head of Sustainable Development

32. The key planning issues to consider in this instance are whether the proposed extension of the end dates for these applications is acceptable in terms of: i) the continuing need for the mineral ii) any environmental and amenity impacts and iii) ensuring restoration of the sites within a reasonable timescale.

(i) Need for Minerals

33. The principle of allowing these developments in their existing location has already been established as acceptable. The main issue with these proposals therefore is whether, in the case of the first application, the need for the mineral continues to exist. Using the figures outlined in the SEP the landbank of permitted reserves is well below the 7 years requirement (currently the County's landbank stands at about 4 years). Allowing the time limit to be extended for completion of this development would enable the reserve to contribute to the maintenance of a landbank in accordance with OMWLP policy SD1.
34. Clay extraction at this location is not supported by OMWLP policy SD5. However, the principle of clay extraction from the site has already been established through the existing consent granted on appeal. The mineral is to be used for engineering purposes at the adjacent landfill site. I consider that this position has not changed and that the clay is still required for lining purposes of the landfill site.

(ii) Environmental and Amenity Impacts

35. There have been no issues raised by consultees or local residents regarding environmental and amenity impacts from these developments. I do not consider that the environmental conditions at the site and in the surrounding area will change as a result of these proposals. In my view the proposed extended time period does not jeopardize the aims of CLP policy ENV1 and NSCLP policy EN34.

(iii) Restoration

36. These proposals raise the issue of whether the sites can still be considered to be capable of restoration in a timely manner if the extensions to the end dates are allowed. Finmere Parish Council have expressed concern about extensions.
37. The current end date for operations in the adjacent landfill site is 31 December 2021. If planning permission was granted then extraction of clay, sand and gravel would take place up to 2018 with restoration completed by 2019. This proposed timescale is therefore within the consented timescales for landfill operations generally on the site and subsequent restoration. The restoration schemes for the development sites were agreed at the time of original consents and this situation remains unchanged. Therefore, in my view, the proposals are consistent with the aim of policy PE13 of OMWLP.

38. Planning permission for these two sites to extend the start date for implementation (for an additional three years) was granted at the beginning of November, 2010. Accordingly it is in my view reasonable to allow similar extension of the end dates to enable extraction of the mineral reserve and allow proper restoration of the sites.

(iv) Other issues

39. One local resident has commented about the lack of adherence of the applicant to previous commitments to gain further permission. I am not aware of any commitments that the applicant might have made in this respect. The resident also makes the point about not determining the applications until the route for the HS2 had been determined. In response I would say that all applications have to be determined in a timely manner, and it would not be appropriate to delay making a decision on these applications whilst waiting for a decision on an infrastructure project that may take place sometime in the future.

Conclusion

40. Permitting these proposals would allow the applicant to access mineral reserves at the site which would contribute to the County's sand and gravel landbank in accordance with the SEP and OMWLP policy SD1. The proposal would enable clay to be provided for adjacent landfill engineering which would avoid the need to import it. The proposal therefore complies with OMWLP policy SD5.
41. There is no change intended to the operations on the site and the environmental setting of the proposals since the granting of the original planning permission. I consider therefore that the proposals accord with CLP policy ENV1 and NSCLP policy EN34.
42. Whilst extending the end dates for both applications, the proposed timescale for restoration is still within the consented timescales for the adjacent landfill operations and restoration. Therefore, the proposals in my view are consistent with the aims of policy PE13 of OMWLP.

RECOMMENDATION

Application 1

43. **It is RECOMMENDED that planning permission for Application 10/01516/CM be granted subject to the same conditions attached to the earlier consents and covering the following matters:**
- (1) Detailed compliance condition;**
 - (2) Commencement date – 3 years (October 2012);**
 - (3) Extraction to cease by 2016 and deposit of waste cease by 2018;**
 - (4) Extraction limited to sand and gravel and no clay extraction;**
 - (5) Removal of buildings, plants and machinery within 1 year of cessation of mineral working;**

- (6) No commencement of mineral extraction until approved pre-development works including diversion of Bridleway 4 had been carried out;
- (7) No construction of silt pond except in accordance with the approved plan;
- (8) Display of copy of the permission and approved plans in the operator's office;
- (9) No importation of aggregate to the site except from the adjacent permitted land;
- (10) Restriction of permitted development rights;
- (11) Carrying out of operation according to agreed operating hours;
- (12) Use of access according to approved plans;
- (13) No mud on the public highway;
- (14) Carrying out of development in accordance with approved wheelwash system;
- (15) No development shall take place except in accordance with approved dust suppression measures;
- (16) Limitation on noise level (to agreed level);
- (17) Effective silencers to be provided on plant, machinery and vehicles;
- (18) Noise emitted from the site shall not contain any discrete continuous noise;
- (19) Reversing vehicles shall not emit warning noise that may have adverse impacts on neighbours or properties;
- (20) Chemical or fuel storage containers to be sited on impervious surface with bund walls;
- (21) Repair, maintenance and refuelling of plant and machinery to take place on an impervious surface drained to an interceptor;
- (22) No permanent dewatering of the Great Oolite Series aquifer. Temporary dewatering shall not take place except in accordance with an approved scheme;
- (23) No external lighting to be installed at the site except in accordance with an approved scheme;
- (24) No development to take place until the developer had secured implementation of a programme of archaeological investigation;
- (25) No removal of trees or hedgerows to take place between 1 March and 31 August inclusive in any year;
- (26) Mitigation measures for protected species according to approved scheme;
- (27) No removal of trees containing bat roosts;
- (28) Straw bales to be erected according to approved restoration plan;
- (29) All disturbed areas of the site and all topsoil, soil making material and overburden mounds to be kept free from agricultural weeds;
- (30) Temporary soil storage bunds to be grass seeded;
- (31) All topsoil and subsoil to be permanently retained on site and used in restoration;
- (32) Topsoil, subsoil and soil making material to be stripped in a dry and friable condition;
- (33) Soil handling, storage and placement to be carried out in accordance with the approved scheme;
- (34) Temporary soil storage bunds shall not exceed 5 metres in height;

- (35) Restoration to be completed only in accordance with the approved restoration scheme;
- (36) Detail of planting for grassland restoration area to be agreed;
- (37) An aftercare scheme to be submitted within 5 years of the permission;
- (38) Operator to provide a detailed annual aftercare programme before 31 March of every year during the aftercare period;
- (39) Operator to arrange a site meeting before 31 March of every year during the aftercare period;
- (40) No deposit of waste other than inert waste.

Application 2

44. It is **RECOMMENDED** that planning permission for Application 10?01515/CM be granted subject to the same conditions attached to the earlier consents and covering the following matters:

- (1) Detailed compliance condition;
- (2) Commencement date – 3 years (October 2012);
- (3) Extraction to cease by 2017, deposit of waste to cease by 2018 and restoration to be completed by 2019;
- (4) Display of copy of the permission and approved plans in the operator's office;
- (5) Mineral excavated from the site not to be transported on to the public highway;
- (6) No quarry rejects materials to be imported to the site except from the permitted area;
- (7) No stockpiling of clay on site;
- (8) No soil stripping until Bridleway 7 has been temporarily diverted;
- (9) Restriction of permitted development rights;
- (10) Carrying out of operation according to agreed operating hours;
- (11) No extraction of mineral below the approved level;
- (12) Use of access according to approved plans;
- (13) Provision of a site access road before commencement of soil stripping;
- (14) Water bowser to be used to eliminate visible dust;
- (15) Limitation on noise level (to agreed level);
- (16) Effective silencers to be provided on plant, machinery and vehicles;
- (17) Noise emitted from the site shall not contain any discrete continuous noise;
- (18) Reversing vehicles shall not emit warning noise that may have adverse impacts on neighbours or properties;
- (19) Chemical or fuel storage containers to be sited on impervious surface with bund walls;
- (20) Repair, maintenance and refuelling of plant and machinery to take place on an impervious surface drained to an interceptor;
- (21) Clay to be retained at the base of any extraction of at least 1 metre thickness;

- (22) No permanent dewatering of the Great Oolite Series aquifer. Temporary dewatering shall not take place except in accordance with an approved scheme;**
- (23) No external lighting to be installed at the site except in accordance with an approved scheme;**
- (24) No development to take place in phase 2 until the developer has secured the implementation of a programme of archaeological investigation;**
- (25) No removal of trees or hedgerows to take place between 1 March and 31 August inclusive in any year;**
- (26) No removal of trees containing bat roosts;**
- (27) All disturbed areas of the site and all topsoil, soil making material and overburden mounds to be kept free from agricultural weeds;**
- (28) Temporary soil storage bunds to be grass seeded;**
- (29) Straw bales to be erected according to approved restoration plan;**
- (30) All topsoil and subsoil to be permanently retained on site and used in restoration;**
- (31) Topsoil, subsoil and soil making material to be stripped in a dry and friable condition;**
- (32) Soil handling, storage and placement to be carried out in accordance with the approved scheme;**
- (33) Temporary soil storage bunds shall not exceed 5 metres in height;**
- (34) Restoration to be completed only in accordance with the approved restoration scheme;**
- (35) Detail of planting restoration area to be agreed;**
- (36) An aftercare scheme to be submitted within 5 years of the permission;**
- (37) Operator to provide a detailed annual aftercare programme before 31 March of every year during the aftercare period.**
- (38) Operator to arrange a site meeting before 31 March of every year during the aftercare period.**

MARTIN TUGWELL
Interim Head of Sustainable Development

November 2010

Relevant Development Plan and Other Policies

Regional Spatial Strategy - South East Plan 2009

M3

Oxfordshire Minerals and Waste Local Plan 1996

SD1, SD5, PE13

Cherwell Local Plan 1996

ENV1

Non-Statutory Cherwell Local Plan

EN34

Plan 1

