

For: PLANNING AND REGULATION COMMITTEE – 29 OCTOBER 2018

By: Director for Planning and Place

UPDATE REPORT ON PROPOSED PLANNING ENFORCEMENT ACTION AT ELM FARM QUARRY, STRATTON AUDLEY.

Division Affected: Ploughley Division

Contact Officer: Chris Hodgkinson Tel: 07899 065518

Recommendation

It is RECOMMENDED that the Committee notes the report

INTRODUCTION

- 1 At the meeting of this committee on 19 February 2018, members considered a report on proposed planning enforcement action at Elm Farm Quarry, Stratton Audley. The committee noted the report and endorsed the carrying out of further ecological surveys to support the officers' consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served no later than 31 December 2018. This report updates members on an enforcement strategy for the above site.
- 2 Decisions on enforcement action under the terms of the Oxfordshire County Council's constitution are delegated to the Director of Planning and Place and in consultation with the County Solicitor.

SITE LOCATION AND DESCRIPTION (Annex 1)

- 3 The site is to the north of Bicester Airfield, access is situated on the unclassified road between the A421 and Stratton Audley village. The site is a partially restored quarry / inert landfill with two remaining voids (now water filled) and naturally developed open land, scrub, tall ruderal and wetland habitats. There are considerable piles of rubble and soils together with scrap materials left in situ, plus the remains of the wheel wash.
- 4 Adjoining the site to the north is a former County Council landfill, now with scrub and open water. Part of both sites is designated as the 'Stratton Audley Quarries' Site of Special Scientific Interest; the Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved. The two sites together are designated as Stratton Audley Quarry Local Wildlife Site (LWS) (recent survey 2014). A belt of land around the perimeter of Bicester Airfield, which adjoins the site, is also designated an LWS.

RELEVANT PLANNING HISTORY

- 5 The last planning permission covering operations at the site and associated legal agreements is as follows: 97/01501/CM Infilling of existing limestone quarry with naturally occurring subsoils and other wastes to form a Country Park, Importation of Waste Aggregates for Recycling and Resale, Elm Farm Quarry, Stratton Audley.
- 6 A unilateral undertaking was given on 20th February 1998 to;
 - make a payment for highway improvements;
 - to restore the land;
 - upon restoration, to open the land to the public for use as a Country Park for 300 days each year;
 - to maintain the Country Park;
 - to cease all mining, quarrying and extraction operations.

STATUS OF THE DEVELOPMENT

- 7 The proper restoration of the Land was required to be completed no later than 31 December 2008 by planning permission no. 97/01501/CM. Restoration is not complete and this represents a serious breach of planning control.
- 8 The original limited liability company carrying out the development went into receivership and was subsequently dissolved. Whilst phase 1 of the development has been completed to a satisfactory standard, the site remains dormant, un-restored and with residual heaps of waste present. The Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved with the drainage wetland turning into an overtopped lake. There are no monies, nor a bond available, for the long-term maintenance of a Country Park.
- 9 As stated, the site was required to be completely restored by 31st December 2008. The County Council has ten years from that date (by 31st December 2018) in which to bring formal enforcement proceedings for the on-going breach of planning control.

PLANNING AND ENFORCEMENT CONSIDERATIONS

- 10 The Town and Country Planning Act 1990 (as amended) provides the Council with discretionary power to take enforcement action if it is expedient to do so, having regard to the provisions of the development plan and to any other material considerations. Any works on site to remedy the breach would have to be carried out in accordance with the provisions of the original planning permission but cannot be any more onerous.
- 11 When considering expediency, it is necessary to contemplate the following points:
 - The harm or potential harm to amenity if the breach or breaches are allowed to continue;

- The history of the operator’s compliance with both formal and informal requests to take steps prescribed or requested by the authority to remedy planning breaches;
 - That the enforcement action proposed is commensurate with and proportionate to the breach to which it relates;
 - Any previous advice, correspondence and negotiations;
 - The consequences of non-compliance;
 - The likely effectiveness of the various enforcement options;
 - The public interest, and;
 - The availability of appropriate evidence to support the enforcement action proposed with due consideration to the likelihood of success.
- 12 The current requirements are for the site to be restored to a Country Park. The original site operator is no longer in existence. The land was acquired in April 2018 by Hungerhill Leisure Limited a subsidiary Bicester Heritage Ltd who own and operate the neighbouring airfield. The new owners are engaged with officers with a view to submit the necessary planning applications to seek to amend the existing planning permission to extend the timescales for completing the long-term restoration of the land.
- 13 Since it was last active nearly ten years ago, the site has naturally regenerated with vegetation and so various habitats have formed. It was decided in February, that before any enforcement action is taken, it is important to establish in more detail through surveys what the current ecological interest of the site is. The council must in any instance have consideration to the impacts on biodiversity provided for in development plan policies and national policy in considering the expediency of any enforcement action.
- 14 As part of the expediency considerations therefore, the County Council commissioned an ecological survey of the site in late spring which required two visits to the site (one at the time and another during the summer months) to ensure the full variety of biodiversity at the quarry was identified.
- 15 A copy of the ecological survey is attached in Annex 2. The report concludes that:
- The site includes the habitats of principal importance – open mosaic habitat on previously developed land, ponds and lowland fen. It also includes areas of unimproved calcareous grassland that has elements of Lowland Calcareous grassland. These habitats are a priority for conservation and should be retained through sensitive management. The areas of lowland fen vary in their botanical species-richness and support a good population of southern marsh-orchids. The diversity of habitat on the site should be retained including scattered and denser scrub and variation from dry to waterlogged ground.
 - The site has records for a range of rare, scarce and declining species. It is desirable to maintain populations of these species on the site and where the habitat requirements of these species are known, they should be incorporated into management plans.

- The site is of county importance for its habitat and species interest. The site is potentially an important site for invertebrates and likely to have interest for a number of different species groups but additional surveys are required to assess this.
 - The site provides valuable habitat for invertebrates and additional surveys are recommended including freshwater invertebrates and soldierflies.
 - The site is likely to support a range of legally protected species with existing records for breeding birds, grass snake, great crested newt, badger and bat species. When the details of proposed management options are known, the potential impacts on these species will need to be assessed and appropriate precautions taken to avoid negative impacts.
- 16 Officers have met with representatives of Stratton Audley Parish Council who have expressed concern that the long-term restoration of the quarry should retain an element of public access which is also a material consideration in the issue of an enforcement notice.
- 17 It is proposed that the county council serves an enforcement notice for breach of condition 20 planning permission no. 97/01501/CM which will extend the time limit for full restoration to be completed. The enforcement notice will also address breaches of conditions 13, 14 and 18 dealing with the aftercare of the restored country park; and conditions 19 and 33 which deal with the phasing of restoration and the provision of a Geological SSI. In short, the enforcement notice will leave the original planning permission intact but allows for an additional period for the restoration to be completed.
- 18 Such an action will also protect the current unilateral undertaking that was given on 20th February 1998 which is transferred to successors in title and is not time limited in the same way that the conditions are. It remains that the agreement specifically requires the owner to make the site available to the public for 300 days a year upon completion of the restoration works.
- 19 As the new owners are now engaged with officers with a view to submit the necessary planning applications to ensure the long-term restoration for the site, the proposed enforcement notice will protect the county council's position and allow an extended period for the owner to complete additional surveys and apply for further planning permission and any alternative end use so that any conflicting issues of public access and nature conservation can be properly considered and a decision made.
- 20 The enforcement notice will be served under delegated authority and detailed wording of the notices is to be agreed with the County Solicitor. Any enforcement notice served is liable to appeal to the Secretary of State.

RECOMMENDATION

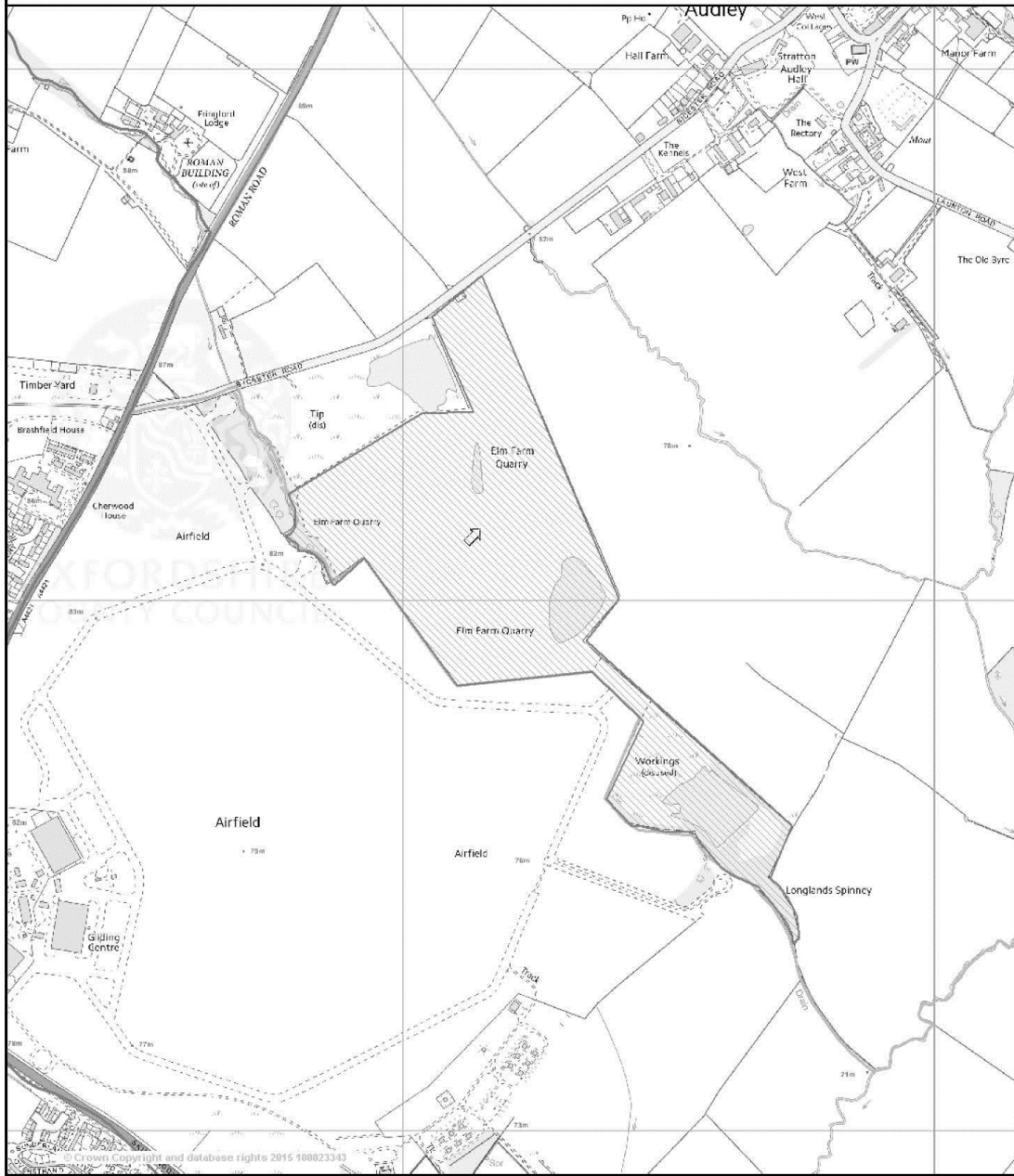
It is RECOMMENDED that the Committee notes the update report.

SUE HALLIWELL

Director for Planning & Place

October 2018

Elm Farm Quarry, Stratton Audley



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