

For: PLANNING AND REGULATION COMMITTEE – 21 JANUARY 2018

By: DIRECTOR FOR PLANNING AND PLACE

Development Proposed:

Erection of a Noise Attenuation Bund.

Division Affected: Kidlington and Yarnton

Contact Officer: Kevin Broughton **Tel:** 07979 704458

Location: Shipton-on-Cherwell Quarry, Bunkers Hill, Shipton-on-Cherwell, OX5 3BA

Applicant: Mr Philip Copplestone, Shipton Ltd.

Application No: MW.00017/17 **District No:** 17/00436/CM

District Council Area: Cherwell

Date Received: 7 February 2017

Consultation Period: 23 February – 16 March 2017

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Recommendation: Approval

• Part 1 – Facts and Background

Location (see site plan Annex 1)

1. The quarry is situated 10km (6.2 miles) north-west of Oxford, immediately north of the village of Shipton-on-Cherwell and east of the A4260. Bletchingdon lies 2km (1.2 miles) to the east of the site. To the north-west of the site is the linear settlement of Bunkers Hill, separated from the quarry by the A4095. Oxford Airport lies 1km (0.6 miles) to the south west. The site lies within the Oxford Green Belt.

2. The quarry is in open countryside covering 71 hectares, of which most of the site comprises a largely worked out dormant limestone quarry. The site also includes an aggregate recycling facility (ARF) located in a central 3.5 hectares area of the quarry, immediately east of the permitted haul road. The ARF is covered by a separate planning permission.
3. To the north-eastern boundary of the quarry, the land falls away to the Oxford Canal/River Cherwell. The Birmingham to Oxford railway line runs along the eastern boundary.
4. The quarry has been designated a County Wildlife Site and parts of it are designated as a geological Site of Special Scientific Interest (SSSI). A public right of way skirts the site to the north and south. Parts of the site are contaminated and are subject to remediation measures required by conditions attached to the extant planning permission.
5. The nearest dwellings to the proposed aggregate recycling site are in Jerome Way (in Shipton-on-Cherwell village) 400 metres to the north-west.
6. The nearest property to the application site is a house 28m to the south.

Background

7. In September 2006 the County Council approved a proposal for the comprehensive restoration and development of the quarry. This development incorporated:
 - Import and deposit of inert waste in order to raise the quarry floor above water level and create a development platform.
 - Re-establishment of rail sidings, construction of a rail aggregates depot and rail storage depot.
 - Mineral extraction.
 - B8 industrial use.
 - Demolition and recycling of existing structures.
 - Wildlife and geological conservation areas.
 - Temporary car storage (15 years).
 - Woodland for managed timber production (after 15 years).
 - Improvements to A4260 / A4095 junctions.
8. Section 73 planning permissions to vary the conditions of that application have been granted, the latest of which is reference number MW.0001/18.
9. Planning and Regulation Committee on 10 December 2018 refused a planning application for an extension to the quarry which included a noise attenuation bund. This proposal differs from that application in that the noise attenuation bund in this case is to mitigate activities that currently have planning permission.

Details of the Development

10. This application seeks retrospective planning permission for the construction of a noise attenuation bund at the southern end of the quarry near the housing at Shipton on Cherwell.
11. The bund was constructed using inert materials to cut down the noise to the residential properties, particularly during the demolition of the old cement works area. The demolition works have now been completed, but the applicant considers it preferable to retain the bund for the duration of the quarrying and restoration works at the site, in order to provide noise mitigation against any potential noise impacts associated with the use of plant and machinery within the operational parts of the site.
12. The noise bund covers an area of 18,600m² and at its maximum is 9.8m high. It is made from overburden/interburden and quarry processing waste.
13. The bund is proposed to be retained on a temporary basis, providing noise mitigation for the life of the operational quarry. It would be removed during the restoration of the site and used to complete the infilling and restoration of the final phase in accordance with the phasing plans. The site has to be restored by 17th June 2036 following 15 years of car storage. The bunds should therefore be removed by 17th June 2021 so that the material can be used in the restoration and once the recycling operations cease.

Part 2 – Other Viewpoints

Representations

14. There has been one third party response objecting on the grounds of noise, dust and traffic.

Consultations

15. Cherwell District council – no objection.
16. Environment Agency – no objection.
17. Natural England – no objection.
18. Network Rail - no objection in principle, but give comments and requirements for the safe operation of the railway.
19. County Transport Development Control Officer – no objection.
20. County Ecology Officer – no objection.
21. County Rights of Way Officer – no objection.

Part 3 – Relevant Planning Documents

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

22. Planning applications are decided in accordance with the development plan taking into account material considerations.
23. The principle of the mineral extraction, recycling and restoration of the site are already permitted. This application is only considering whether the material should be stored as noise attenuation bunds prior to being used as restoration. The relevant development plan policies are:
24. Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS)
 - C1 – Sustainable development
 - C4 – Water environment
 - C5 – Local environment, amenity and economy
 - C7 – Biodiversity and Geodiversity
 - C8 – Landscape
 - C12 – Green Belt
25. Cherwell Local Plan 2011 – 2031 (CLP)
 - PSD1: Presumption in Favour of Sustainable Development
 - ESD 8: Water Resources
 - ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
 - ESD 13: Local Landscape Protection and Enhancement
 - ESD 14: Oxford Green Belt
26. The National Planning Policy Framework [NPPF] and its technical guidance are also material considerations. The Cherwell Local Plan review is under way, but it is at a very early stage and there are, as yet, no policies that would apply to this application.

Comments of the Director for Planning and Place

27. Policy PSD 1 of the CLP seeks a positive approach to development generally, and Policy C1 of the OMWCS states that a positive approach will be taken to minerals and waste development in line with the presumption in favour of sustainable development in the NPPF. The proposed development should therefore be granted planning permission unless policies or material considerations dictate otherwise.

Landscape

28. Policy C8 of the OMWCS states that proposals should respect and where possible enhance local landscape character. It further states that where significant adverse impacts cannot be avoided or adequately mitigated, compensatory environmental enhancements shall be made to offset the residual landscape and visual impacts. Policy ESD13 of the CLP seeks opportunities to enhance local landscape character.

29. The bund is a visual intrusion and is not in keeping with the local landscape character. It is made worse by the fact that it has not been subject to any planting. The proposal could be softened by attaching a planting condition to any permission given, but it would not be sufficient to overcome the harm to the landscape caused by the bund. The proposal is therefore contrary to policy C8 of the OMWCS and policy ESD13 of the CLP.

Effect on the Local Amenity

30. Policy C5 of the OMWCS states that proposals for mineral and waste development should not have an unacceptable impact on the local environment, human health and safety, residential amenity, and the local economy.
31. The bund does provide noise attenuation. It also serves to reduce the impact of dust arising from within the site. Complaints about noise and dust are periodically received, by the County's Monitoring and Enforcement Team, about noise and dust that emanate from activities within the quarry site. The bund has helped to reduce those complaints. However, concerns have been raised through the County's monitoring and enforcement team, that some dust is being blown off the bund itself. A condition to secure planting on the bund would mitigate that concern and ensure a positive outcome for the local residents in terms of human health and safety.
32. In terms of the local environment and residential amenity, the intent is to improve both those by reducing noise arising from the quarry. It also provides a barrier to dust which is also a positive impact. The bund itself causes harm to the visual amenity of the area because of its scale and setting. I consider that the improvements in limiting the noise and dust emanating from the site are such that they outweigh the temporary harm to visual amenity.
33. There would be no significant impact in terms of the local economy. The proposed development does therefore accord with policy C5 of the OMWCS.

Other Issues

34. Policy C7 of the OMWCS and policy ESD10 of the CLP seek a net gain in biodiversity. Prior to the development taking place, an Extended Phase 1 Habitat Survey identified the area as tall ruderal and ephemeral/short perennial vegetation. The bund has not led to the loss of any significant species, but it has not shown a net gain in biodiversity either. The condition requiring a planting scheme should also require a mix that would lead to an increase in biodiversity during the time that the bund is in place, which would make the application compliant with policies C7 and ESD10.
35. Policy C4 of the OMWCS and policy ESD8 of the CLP seek to protect water resources. The Environment Agency had initially objected to the application, but upon receiving further information from the applicant they have withdrawn their

objection. The proposed development would not therefore harm the water environment and would be compliant with both policies.

Green Belt

36. The proposed development used inert materials arising on the site to create a bund, which affects the openness of the Green Belt and is therefore inappropriate. Policy C12 of the OMWCS states that proposals that constitute inappropriate development in the Green Belt will only be permitted in Very Special Circumstances. Policy ESD 14 of the CLP states that Development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
37. The proposal has created a noise bund to protect local amenity while the existing permitted operations within the quarry are taking place on the site. These can only be carried out in the location in the Green Belt and, once the bund is no longer needed for noise attenuation, it would be removed and the material from which it is constructed would be used in the restoration of the quarry.
38. The proposal benefits the local residential amenity by the protection it affords from the activities within the quarry. That benefit must be weighed against the harm caused to the Green Belt and the harm to the local landscape. The harm to the Green Belt and the local landscape would however be temporary and would be removed once no longer needed to mitigate the noise and dust from activities on the site. A condition could be added to ensure the removal of the bund at the end of the waste recycling activities on the site.

Conclusion

39. The development constitutes inappropriate development in the Green Belt, however the bund does provide improvements to the local amenity in terms of noise attenuation and there does not appear to be any other means of achieving these. To require its removal would be likely to lead to additional impacts on residential amenity. Even taking into account the loss of amenity caused by the visual effect of the bund, and the harm caused to the local landscape, the overall improvements to amenity are such as to amount to very special circumstances. With the conditions set out in the report there would be a net gain in biodiversity, and there is no other significant harm caused by the bund.

RECOMMENDATION

40. **It is RECOMMENDED that planning permission for application no. MW.0001/18 be approved subject to conditions to be determined by the Director of Planning and Place to include the following conditions:**
 - i. **The development shall be carried out strictly in accordance with the particulars of the development, plans and specifications contained in**

the application except as modified by conditions of this permission. The approved plans and particulars comprise:

- **Application form dated 6/12/2016**
- **Planning Statement dated December 2016**
- **Drawing no SHIPTSV1608 1 D – Site Location Plan**
- **Drawing no SHIPEXT1610 2 A – Screening Bund**
- **Drawing no SHIPTSV1608 3 C – Bund update survey 06.06.2016**
- **Drawing no SHIPTSV1608 4 D – Noise Bund - cross sections**
- **Technical Note dated 5 October 2016**

ii. Within two months of the date of the permission, a scheme of planting shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented during the next planting season.

iii. The bund shall be removed by 17 June 2021.

European Protected Species

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 habitat on and around the proposed development site and ecological survey results indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

Compliance with National Planning Policy Framework

In accordance with paragraph 38 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.

There was active engagement with the applicant and a decision on the application was delayed to give time for the applicants to provide further information, which after some correspondence led to the Environment Agency removing their objection.